



Lori Droste
Vice Mayor, District 8

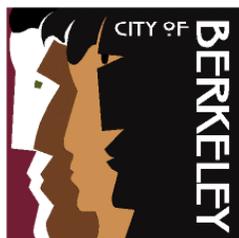
SUPPLEMENTAL AGENDA MATERIAL

For the Land Use and Economic Development Policy Committee

Meeting Date: March 1, 2021
Item Number: 1
Submitted by: Vice Mayor Lori Droste

1. The following amendments reflect the unanimous action that Council took on February 23, 2021 in approving a resolution to guide zoning revisions (Attachment 1). The following amendments reflect that unanimous vote which occurred subsequent to the previous Land Use and Economic Development Policy Committee meeting on 2/18/21:
 - a. Reiteration and restating the public safety standards that Council has already committed to with the passage of the resolution on 2/23/21.*
 - b. Explicit reference to a robust community input process, which underscores that General Plan amendments and Housing Element Updates will engage the public in the form of extensive outreach, public hearings, and engagement through the latter part of 2022.*
 - c. Expanded language on contextual additions and adaptive reuse.
 - d. Addition of guiding principles based on the spirit of the legislation and the resolution passed by Council.
 - e. Background edits
2. Consideration of an option that focuses on form based codes (building scale and the building envelope) in order to achieve predictable design standards that meet the objectives of the approved Council resolution.
3. Clarify and reiterate that the community engagement process should consider, but not mandate, incentives for ministerial approval of projects that meet objectively defined design, affordability, or other standards.
4. Inclusion of a letter of support from Professor Karen Chapple from the Urban Displacement Project.
5. Paragraph rearrangement, minor edits, and page numbers added for clarity.

*No proposal ever indicated that fire safety standards and community engagement standards would be ignored or bypassed.



Lori Droste
Vice Mayor, District 8

ACTION CALENDAR
March 1, 2021

To: Honorable Mayor and Members of the City Council

From: Vice Mayor Lori Droste, Councilmember Terry Taplin, Councilmember Rashi Kesarwani and Mayor Jesse Arreguín

Subject: Inclusive Neighborhood ~~Scale~~ Zoning

RECOMMENDATION

Refer to the City Manager and Planning Commission to develop and recommend revisions to the zoning code and General Plan concurrent with a robust community process, to permit developments of up to four residential units in all residential zoning districts and/or alternatively, permit developments where building size is regulated and the building envelope is clearly defined with form based codes ~~except in the ES-R District,~~ and subject to the requirements below.

Public Safety Provisions

With any zoning changes, public safety is paramount. Council has already stated several times that ensuring public safety of the Berkeley community is a primary concern and passed a zoning reform resolution reaffirming that fact.¹ While zoning reform should examine all residential districts, the following criteria should apply:

- That the development is not located in areas that would contribute to increased life loss or injury based on objective geological, seismic, or wildland-urban interface fire safety standards.

¹ “Whereas public safety, in particular in the face of earthquakes, fire, and sea level rise, is of critical importance...Be it further resolved that City Council will pursue zoning reform that takes into account public safety in all parts of Berkeley.” City of Berkeley (2021) *Declaring the Intent of the City Council to Allow Multi-Family Housing in Residential Neighborhoods Throughout Berkeley*, see Attachment 1.

- That the development is not located in areas with substandard emergency vehicular access, inadequate water pressure, or are exceptionally vulnerable to severe damage or destruction from fire and earthquake hazards based on objective geological, seismic, or wildland-urban interface fire safety standards.

Design and Architectural Guidelines and Incentives

With any zoning changes, it is important to ensure housing scale by regulating maximum build height, width along the street, and depth into the lot. The following guidelines should apply during any zoning code revisions:

- That the development is not located within a historic district, is not included in the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district designated prior to Berkeley's 6th Cycle Housing Element adoption.
- For projects involving building additions or new construction, consider scaling the maximum allowable floor area ratio (FAR) to increase as the number of units increase onsite as an incentive for creating multiple smaller units, as opposed to one larger unit. Utilize zoning regulations to discourage multiple single family detached units on one lot.
- Consider permitting a variety of building types (attached, detached, bungalow courts etc.) to maximize flexibility and potential opportunities for homeownership.
- Consider zoning incentives for contextual addition and adaptive reuse. Allow for the possibility of existing homes/footprints/zoning envelopes to be divided into multiple ~~up to four~~ units, potentially creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.²
- Consider –but do not mandate– incentives for ministerial approval. ~~Proposed housing developments containing up to four residential units may be approved ministerially, if the proposed housing development meets certain requirements/limitations including but not limited to:~~

Tenant Protections and Anti-Displacement Provisions

² City of Portland, (2019). *About the Residential Infill Project.* <https://www.portland.gov/bps/rip/about-project>

With any zoning changes, it is essential to ensure that existing tenants are protected and residents do not experience involuntary displacement. The following criteria should apply:

- That the proposed housing development ~~does~~ would not require demolition or elimination of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, or which otherwise limits the rate at which rents may be increased or the circumstances under which a sitting tenant may be evicted (i.e. subsidized affordable units, inclusionary housing or units under Section 8 contract) or units subject to Berkeley's Rent Stabilization and Eviction for Good Cause Ordinance.
- That if the development would involve the demolition or renovation of any units with sitting tenants or which recently housed (within 5 years) tenants, expanded and permanent tenant protections pursuant to Government Code 66300³ would apply, including but not limited to increased relocation payments and ~~conferring~~ right-to-return and relocation benefits that would also apply to tenants in rental units not covered by Berkeley's Rent Stabilization Ordinance.
- Projects involving the demolition of an existing tenant-occupied single family home or multi-unit property to create a new project shall be subject to the city's Demolition Ordinance, BMC Chapter 23C.08.
- Consider: 1) a local affordable housing density bonus for deeper affordability in certain jobs-rich or transit-oriented areas if a certain percentage or number of the units are affordable to households making 80% or less of area median income⁴ and/or 2) other zoning incentives, such as the relaxation or waiver of certain development standards, in exchange for greater levels of affordability in the form of the payment of in-lieu fees or additional affordable units, including waiving or increasing certain lot development standards.
- Prohibit ministerial approval of a ~~4-unit~~ project if the building was removed from the rental market under the Ellis Act during the preceding five (5) years or there have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.

³Skinner, N. (2019). The Housing Crisis Act of 2019. *California Legislative Information*, https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=12.&article=

⁴ Jobs-rich and transit-oriented definitions should be defined by the Planning Commission in consultation with staff.

- Require notice be provided to tenants of an application for demolition, elimination, subdivision, or consolidation of units to create a 4-unit project (notice is not required if the project is ministerially approved).
- Prior to adoption of zoning or municipal code changes pursuant to this item, conduct a displacement risk analysis and consider possible ways that zoning changes can be crafted to prevent and mitigate negative externalities which could affect tenants and low and moderate-income homeowners.

Council directs that staff to initiate this work immediately and the Planning Commission to incorporate zoning reform into its 2021 and 2022 work plan to institute these changes in anticipation of the Housing Element update. Staff and the commission should examine how other cities have prepared for and implemented similar missing middle housing in Minneapolis, Portland, and Sacramento and conduct extensive community outreach during the course of this update. In addition, Planning staff is encouraged to seek regional, and state, and federal funding to support this work.

CURRENT PROBLEM AND ITS EFFECTS

The nine-county Bay Area region is facing an extreme shortage of homes that are affordable for working families. The Metropolitan Transportation Commission illustrates the job-housing imbalance in a report showing that only one home is added for every 3.5 jobs created in the Bay Area region.⁵ California ranks 49th in the United States for housing units per capita – only Utah creates fewer homes.⁶ Governor Gavin Newsom has called for a “Marshall Plan for affordable housing” and has pledged to create millions of more homes in California to tackle the state’s affordability and homelessness crisis.

In Berkeley, the median sale price of a home is \$1.4 million (as of January 2021) –an increase of 56% over the median sale price in December 2015 of \$895,000.⁷ These escalating costs coincided with an increase of 14% in Berkeley’s homeless population from 2017 to 2019, and a 34% increase from 2015 to 2019 point-in-time counts.⁸ These skyrocketing housing costs put extreme pressure on low-, moderate- and middle-

⁵ Metropolitan Transportation Commission. (2018). *Vital Signs*. <http://www.vitalsigns.mtc.ca.gov/>

⁶ Woetzel, J., Mischke, J., Peloquin, S., and Weisfield, D. (2016, October). *A Toolkit to Close California’s Housing Gap: 3.5 Million Homes by 2025*. McKinsey Global Institute, <https://www.mckinsey.com/~media/McKinsey/Industries/Public%20and%20Social%20Sector/Our%20Insights/Closing%20Californias%20housing%20gap/Closing-Californias-housing-gap-Full-report.pdf>

⁷ *Berkeley Home Prices and Values*. (2021, January). Zillow. <https://www.zillow.com/berkeley-ca/home-values/>

⁸ Applied Survey Research. (2019, September). *City of Berkeley Homeless Count and Survey, Comprehensive Report*. Everyone Home. https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf

income households, as they are forced to spend an increasing percentage share of their income on housing (leaving less for other necessities like food and medicine), live in overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

Low-Income Households Cannot Afford to Live in Berkeley

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. The U.S. Department of Housing and Urban Development (HUD) defines "affordable" as housing that costs no more than 30 percent of a household's monthly income. Households are considered to be "rent burdened" when more than a third of their income goes toward housing costs. In Alameda County, rent burdens increased across all incomes but it increased most substantially for low- and very low-income households. The Urban Displacement Project reported that "[i]n both 2000 and 2015, extremely low-income renters were by far the most likely to experience severe rent burden, with nearly three quarters spending more than half their income on rent."⁹

Although residents of Berkeley passed Measure O in 2018 which substantially increased funding for affordable housing, low-income units are increasingly expensive to create. Low-income housing units typically cost well over \$500,000 to create and the demand for this type of subsidized housing exceeds the supply.¹⁰ Without a substantial additional increase in funding, Berkeley will be increasingly challenged to create enough subsidized affordable housing to meet the demand. For example, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings in Berkeley. This project cost \$18 million to build.¹¹ While Berkeley should continue to support subsidized housing, subsidized housing alone is insufficient to address the growing housing and homelessness crisis, especially considering the majority of low-income individuals only have access to non-subsidized affordable housing.

Middle-Income Households Can't Afford to Live in Berkeley

In the Bay Area, those earning middle incomes are facing similar challenges in finding affordable homes. The Pew Research Center classifies middle income households as those with "adults whose annual household income is two-thirds to double the national median." In 2018, middle income households were those earning approximately

⁹ UC Berkeley's Urban Displacement Project and the California Housing Partnership. (2015). Rising Housing Costs and Resegregation in Alameda County, *Urban Displacement Project*.

http://www.urbandisplacement.org/sites/default/files/images/alameda_final.pdf

¹⁰ Claros, M. (2020, March 20). The Cost of Building Housing *The Terner Center*, <https://ternercenter.berkeley.edu/construction-costs-series>

¹¹ Flood, L. (2018, January 18). *Berkeley low-income seniors get a fresh start at Harper Crossing*. Berkeleyside, <https://www.berkeleyside.com/2018/01/18/berkeley-low-income-seniors-get-fresh-start-harper-crossing>

\$48,500 to \$145,500 for a household of three. The Bay Area is one of the most expensive areas, with a price level that was 31.6% higher than the national average. As a result, a Bay Area household needs a reported income of about \$63,800, or approximately \$15,000 more than the U.S. norm, to join the middle class.¹²

In the Bay Area, a family currently has to earn ~\$200,000 annually to afford the principal, interest, taxes and insurance payments on a median-priced home in the Bay Area (assuming they can pay 20 percent of the median home price of \$1.4 million up front).¹³ This means that many City of Berkeley employees can't afford to live where they work: a fire captain (making \$144,000) with a stay at home spouse wouldn't be able to afford a home. Even a firefighter (earning \$112,000 annually) and a groundskeeper (making \$64,000), or two librarians (making \$89,000 each) couldn't buy a house.¹⁴

Berkeley Unified School District employees have recently been advocating for teacher housing. Unfortunately, the housing options for teachers are insufficient for the overwhelming need. According to a recent Berkeley Unified School District (BUSD) survey, 69% of teachers or staff who rent believe that high housing costs will impact their ability to retain their BUSD positions.¹⁵ Since individual K-12 teacher salaries average ~\$78,700, the majority of teachers are not classified as low-income, according to Housing and Urban Development guidelines.¹⁶ As a result, many cannot qualify for affordable housing units. Since middle-income individuals and families can't qualify for affordable housing units and very few subsidies are available to help, the vast majority have to rely on non-governmental subsidized methods and the private market to live in the Bay Area.

Families Are Struggling to Live in Berkeley

Many families are fleeing the Bay Area due to the high cost of living. According to a study by the Turner Center for Housing Innovation, the income and racial patterns of out-migration and in-migration indicate that "the region risks backsliding on inclusion and diversity and displacing its economically vulnerable and minority residents to areas

¹² Ibid.

¹³ *The salary you must earn to buy a home in the 50 largest metro.* (12/20/2020). HSH. <https://www.hsh.com/finance/mortgage/salary-home-buying-25-cities.html#>

¹⁴ *Job Descriptions.* (2021) City of Berkeley Human Resources, <http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568>

¹⁵ *BUSD Employee Housing Survey* (2017, November 17). Berkeley Unified School District. <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3Adfd74865-9541-4ff8-b6a6-4dcbd30acdc3>

¹⁶ *Teacher Salaries.* (2020). Education Data Partnership, <http://www.ed-data.org/district/Alameda/Berkeley-Unified>

of more limited opportunity.”¹⁷ Rent for a two-bedroom apartment in Berkeley costs approximately \$2,070/month¹⁸ while the median child care cost in Alameda County is \$1,824 a month, an increase of 36% in the past four years.¹⁹ Consequently, most families are paying well over \$46,000 for living and childcare expenses alone.

Homelessness is on the Rise in the Bay Area

High housing costs also lead to California having among the highest rates of poverty in the nation at 17.2%.²⁰ Consequently, homelessness is on the rise throughout California. The Bay Area has one of the largest and least-sheltered homeless populations in North America.²¹ The proliferation of homeless encampments—from select urban neighborhoods to locations across the region—is the most visible manifestation of the Bay Area’s extreme housing affordability crisis. According to the 2019 point-in-time count, Berkeley had approximately 1,108 individuals experiencing homelessness on any given night.²² In order to act in accordance with best practices research on alleviating homelessness and help homeless individuals get housed, the City needs to create more homes.²³ Tighter housing markets are associated with higher rates of homelessness, indicating that the creation of additional housing for all income levels is key to mitigating the crisis.²⁴ In the 1,000 Person Plan to Address Homelessness, Berkeley’s Health, Housing and Community Services staff recommend that Council prioritizes “implementing changes to Berkeley’s Land Use, Zoning, Development Review Requirements for new housing with an eye toward alleviating homelessness.”

BACKGROUND

¹⁷ Romem, I and Kneebone, E. (2018). *Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?* Turner Center. <https://turnercenter.berkeley.edu/disparity-in-departure>

¹⁸ Chen, C. (2021, January 27). *San Francisco Bay Area Metro Report*. Zumper. <https://www.zumper.com/blog/san-francisco-bay-area-metro-report/>

¹⁹ D'Souza, K. (2019, February 3) *You think Bay Area housing is expensive? Child care costs are rising, too*. The Mercury News <https://www.mercurynews.com/2019/02/03/you-think-bay-area-housing-is-expensive-childcare-costs-are-rising-too/amp/>

²⁰ Fox, L. (2020, September) *The Supplemental Poverty Measure 2019*, The Census. <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-272.pdf>

²¹ Turner, M. (2017, October 23). *Homelessness in the Bay Area: Solving the problem of homelessness is arguably our region’s greatest challenge*. SPUR: Ideas and Action for a Better City. <https://www.spur.org/publications/urbanist-article/2017-10-23/homelessness-bay-area>

²² Applied Survey Research. (2019, September). *City of Berkeley Homeless Count and Survey, Comprehensive Report*. Everyone Home. https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf

²³ *The Evidence behind Approaches that Drive an End to Homelessness*. (2017, December). United States Interagency Council on Homelessness https://www.usich.gov/resources/uploads/asset_library/evidence-behind-approaches-that-end-homelessness.pdf

²⁴ Quigley, J.M., Raphael S., and Smolensky, E. (2001, February). *Homeless in America, Homeless in California. The Review of Economics and Statistics* https://urbanpolicy.berkeley.edu/pdf/qrs_restat01pb.pdf

In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. The final legislation passed by Council was an agreement to **study** how the City of Berkeley can incorporate varying building types throughout Berkeley and address exclusionary practices. While the entire City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council additionally supported Senate Bill 902, which streamlines rezoning for missing middle housing in transit-oriented or jobs-rich areas.²⁵

Regional Housing Needs Allocations

In January 2021, the Association of Bay Area Governments voted to approve the implementation of Senate Bill 828 which was designed to address the extreme housing shortage across California. As a result, Bay Area cities will have to zone for 441,000 new homes. Berkeley will see a 19% increase — approximately 8,900 — in the number of homes for which it must zone.

~~Quadplexes~~ Inclusive Neighborhood Missing Middle Housing

1. A range of clustered or multi-unit housing types of missing middle housing that has up to four units within a structure that is often similar in size, scale, and design to single-family homes.
2. Housing types that are naturally affordable and less expensive than most housing options available within Berkeley.

The current housing market has led to “barbell” housing delivery. That is, new units tend to be highly-priced (market rate or luxury) or highly subsidized (affordable). Consequently, the majority of the population can’t access ~~quadplexes and other missing middle units~~ homes because the dearth of funding, scarcity of land, and high construction costs impose challenges on viability. One study found that individuals trying to create missing middle housing cannot compete financially with larger projects in areas zoned for higher density, noting “many smaller developers have difficulty obtaining the necessary resources, including the competitive funding, required to offset the high initial per-unit development costs, and larger developers with deeper pockets and more experience navigating complex regulatory systems will almost always opt to build projects that are large enough to achieve the bulk per-unit development rate.”²⁶

²⁵Wiener, S. and Atkins, T. (2020) *Senate Bill 902*. California Legislative Information. https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB902

²⁶ The Montgomery Planning Dept., “The Missing Middle Housing Study,” September 2018. http://montgomeryplanning.org/wp-content/uploads/2018/09/MissingMiddleHousingStudy_9-2018.pdf

Additionally, missing middle housing is not permitted in areas zoned R1 (single family family and one accessory dwelling unit only), R1A (limited two family), and R2 (restricted two family). Other factors that may prevent the creation of missing middle housing include lot coverage ratios and setback and parking requirements.²⁷

According to the U.S. Census American Community Survey, newly built missing middle housing like duplexes, triplexes, and fourplexes more often houses middle and lower income families in Berkeley, while single-family homes, no matter what year built, are exclusively higher income.

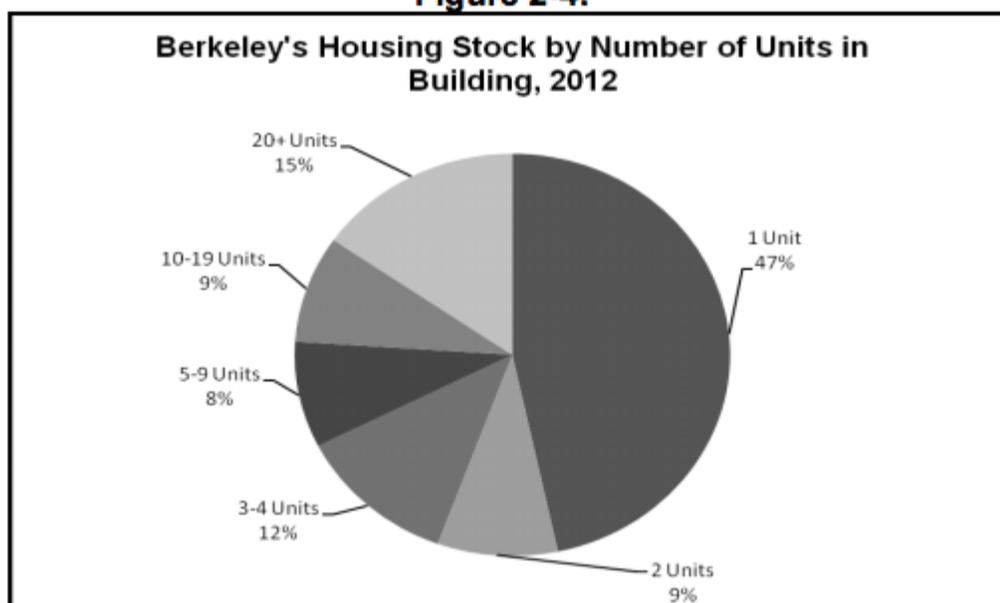
Median household income, Berkeley & Albany, by building age & type					
	Pre-1950	1950-1969	1970-1989	1990-2004	2005-
Single-family detached	148,590	139,295	107,081	131,004	148,835
Single-family attached	84,903	126,930	96,233	167,025	134,460
2-4 units	79,012	63,973	53,335	45,403	48,691
5-19 units	46,037	41,104	39,811	42,243	27,950
20+ units	25,628	42,319	41,387	23,585	40,518

Source: American Community Survey, 2014-18, Public Use Microdata Set, US Census.

Quadplexes Missing middle housing generally has small- to medium-sized footprints and are often two stories or less, allowing them to blend into the existing neighborhood while still encouraging greater socioeconomic diversity. One home within missing middle housing forms is a quadplex less expensive than comparable single family homes, leading to greater accessibility to those earning median, middle, or lower incomes. The median price of a single family home in Berkeley is \$1.4 million, which is out of reach for the majority of working people.²⁸ While some may erroneously argue that the *only* way to address the needs of low- or moderate- income families is to provide subsidized housing, ample research indicates this is not the case because the distribution of land costs can be spread across multiple units and construction costs are lower.

²⁷ Ibid.

²⁸ Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

Figure 2-4:

Source: US Census, ACS 2008-2012 5-Year Estimate., Table B25024

Approximately half of Berkeley's housing stock consists of single family units²⁹ and more than half of Berkeley's residential land is zoned in ways that preclude most missing middle housing. As a result, today, mainly wealthy households can afford homes in Berkeley.

History of Exclusionary Zoning, Racial and Economic Segregation, and Current Zoning

Single family residential zoning was born in Berkeley in the Elmwood neighborhood in 1916. This zoning regulation forbade the construction of anything other than one home per lot. In 1915, Berkeley's City Attorney Frank V. Cornish wrote, "Apartment houses are the bane of the owner of the single family dwelling" while the consultant who penned Berkeley's zoning ordinance stated, "[The] great principle of protecting the home against the intrusion of the less desirable and floating renter class."³⁰ Subsequently, the Mason McDuffie Company's use of Berkeley's zoning laws and racially-restrictive property deeds and covenants prevented Black, Indigenous, and People of Color from purchasing or leasing property in east Berkeley.³¹

²⁹ City of Berkeley 2015 -2023 Housing Element.

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf

³⁰ Cornish, F.V. *The Legal Status of Zone Ordinances* and Cheney, C. *The Necessity for a Zone Ordinance in Berkeley*. Berkeley Civic Bulletin, May 18, 1915.

³¹ Wollenberg, C. (2008) *Berkeley, A City in History*, University of California Press.

Mason-McDuffie race-restrictive covenants stated, “if prior to the first day of January 1930 any person of African or Mongolian descent shall be allowed to purchase or lease said property or any part thereof, then this conveyance shall be and become void...”³² In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the “disastrous effects of uncontrolled development”³³ and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.³⁴ After *Buchanan v Warley* in 1917, explicit racially restrictive zoning became illegal. However, consideration to maintaining the character of districts became paramount and Mason-McDuffie contracts still stipulated that property owners must be white.

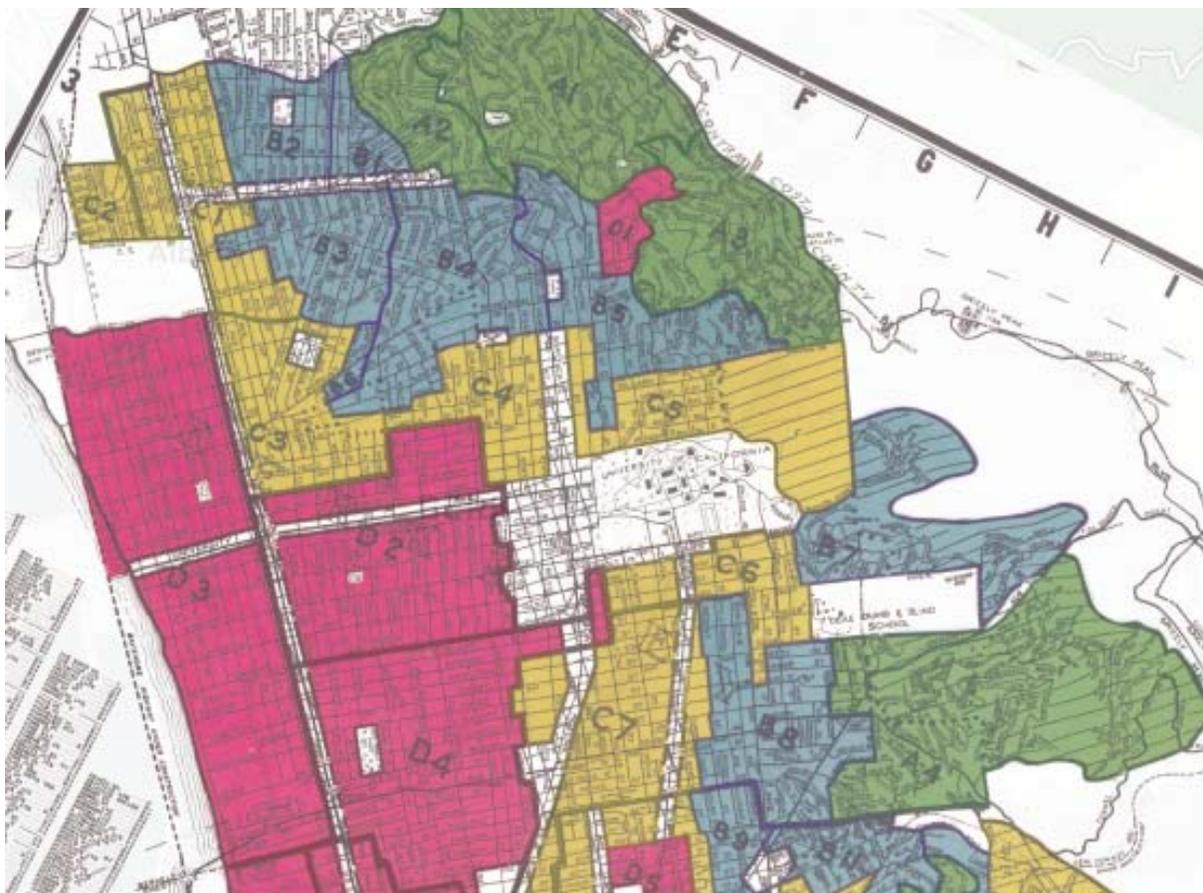
In 1933, the federal government created a Home Owners Loan Corporation (HOLC), which produced residential maps of neighborhoods to identify mortgage lending risks for real estate agents, lenders, and others. These maps were based on racial composition, quality of housing stock, access to amenities and were color coded to identify best (green), still desirable (blue), definitely declining (yellow), and hazardous (red) neighborhoods. HOLC maps enabled discriminatory lending practices—later called ‘redlining’—and allowed lenders to enforce local segregation standards.³⁵ These maps extensively referenced single-family zoning as on par with racial covenants in appreciating property values, unaffordability and excluding people of color. For example, the Berkeley Hills was described as, “zoned first residential, single family, deed restrictions prohibit Asiatics and Negroes.”

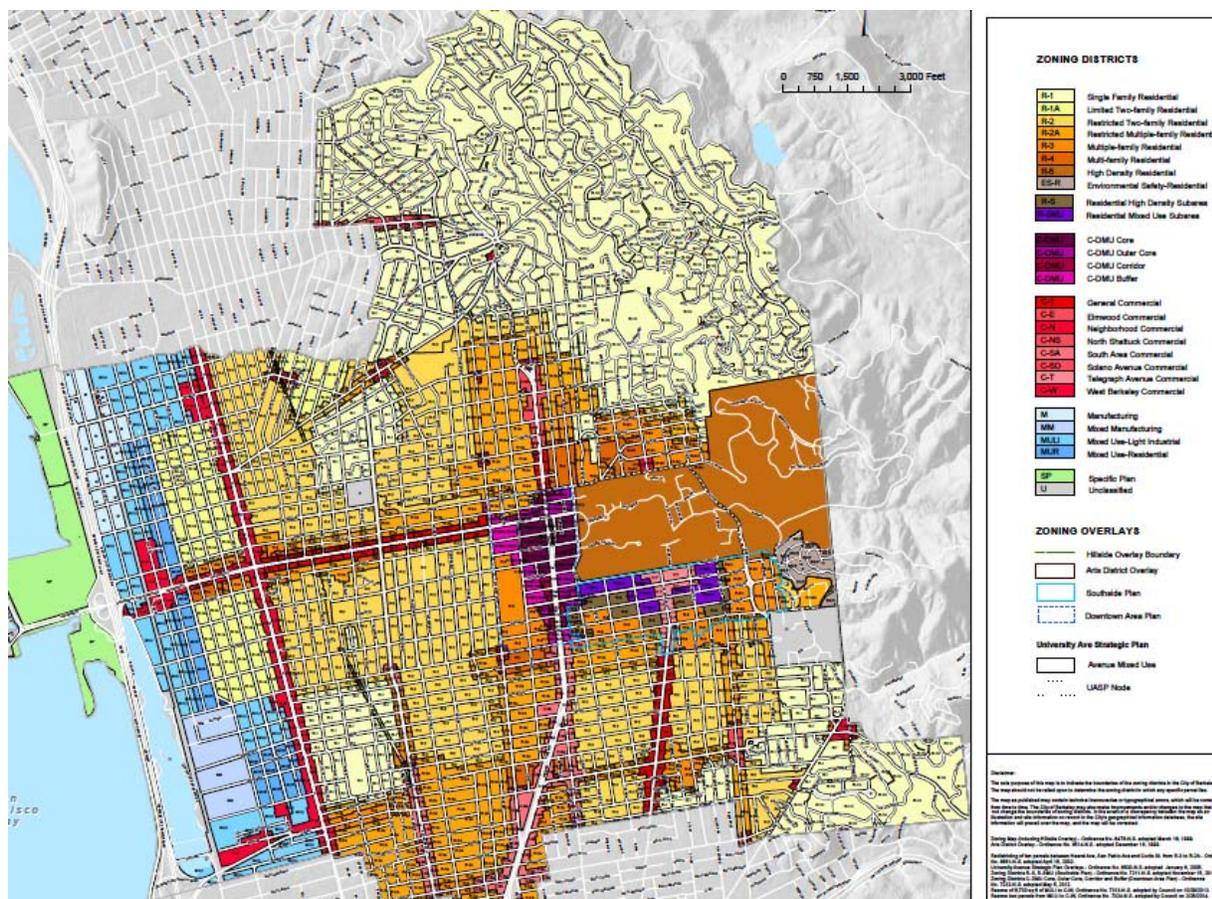
³² Claremont Park Company Indenture. (1910).

³³ Lory, M. T. (2013). A History of Racial Segregation, 1878–1960. *The Concord Review* 24(2). <http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf>

³⁴ Weiss, M. A. (1986). Urban Land Developers and the Origins of Zoning Laws: The Case of Berkeley. *Berkeley Planning Journal*, 3(1). <https://escholarship.org/uc/item/26b8d8zh>

³⁵ Mitchell, B. and Franco, J. (2018). *HOLC “REDLINING” MAPS: The persistent structure of segregation and economic inequality*. NCRC Opening Doors to Economic Opportunity, https://ncrc.org/wp-content/uploads/dlm_uploads/2018/02/NCRC-Research-HOLC-10.pdf





The images above compare a HOLC-era (Thomas Bros Map) map of Berkeley with a current zoning map. Neighborhoods identified as “best” in green on the HOLC-era map typically remain zoned as single family residential areas today. Red ‘hazardous’ neighborhoods in the first map are now largely zoned as manufacturing, mixed use, light industrial, or limited two family residential.³⁶

In 1963, Berkeley also voted down an ordinance to prevent racial housing discrimination as recounted in “Segregation Western Style.”³⁷ Berkeley’s post-war growth and housing policy was shaped and mired in racist policies and real estate practices. This was one of the main reasons for racial segregation in Berkeley.³⁸

Prior to the 1970s and the passage of the Neighborhood Preservation Ordinance, a variety of missing middle housing –duplexes, triplexes, and other smaller multi-unit building typologies–was still being produced and made available to families throughout

³⁶ Nelson, R.K, Winling, L., Marciano, R, Connolly, N. et al., *Mapping Inequality, Redlining in New Deal America*. American Panorama.

<https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&adview=full>

³⁷ Segregation Western Style. (1963). *Bay Area Television Archive*.

<https://diva.sfsu.edu/collections/sfbatv/bundles/223879>

³⁸ Daniels, D.H. (2013, May). *Berkeley Apartheid: Unfair Housing in a University Town*. History Research, ISSN 2159-550X, Vol. 3, No. 5, 321-341, <https://www.berkeleyside.com/wp-content/uploads/2016/02/Apartheid-in-a-University-Town.pdf>

the Bay Area, particularly in Berkeley. In 1973, the residents of Berkeley passed the Neighborhood Preservation Ordinance which severely restricted multi-unit housing in certain parts of Berkeley.

Year Built	Units in Building				
	1	2-4	5-19	20+	Other
2000 or later	261	96	120	1305	9
Built 1980 to 1999	903	391	671	824	45
Built 1960 to 1979	4369	1292	2382	2114	124
Built 1940 to 1959	4369	2448	2095	1182	45
Built 1939 or earlier	14107	4926	2158	1364	28
Total	24,009	9,153	7,426	6,789	251

Source: U.S. Census, ACS 2008-2012 5 Year Estimate, Table B25127

Until 1984, Martin Luther King Jr Way was known as Grove Street. For decades, Grove Street created a wall of segregation down the center of Berkeley. Asian-Americans and African-Americans could not live east of Grove Street due to race-restrictive covenants that barred them from purchasing or leasing property. While race-restrictive covenants no longer prohibit individuals from purchasing or leasing homes, most cities still retain the vestiges of exclusionary zoning practices.

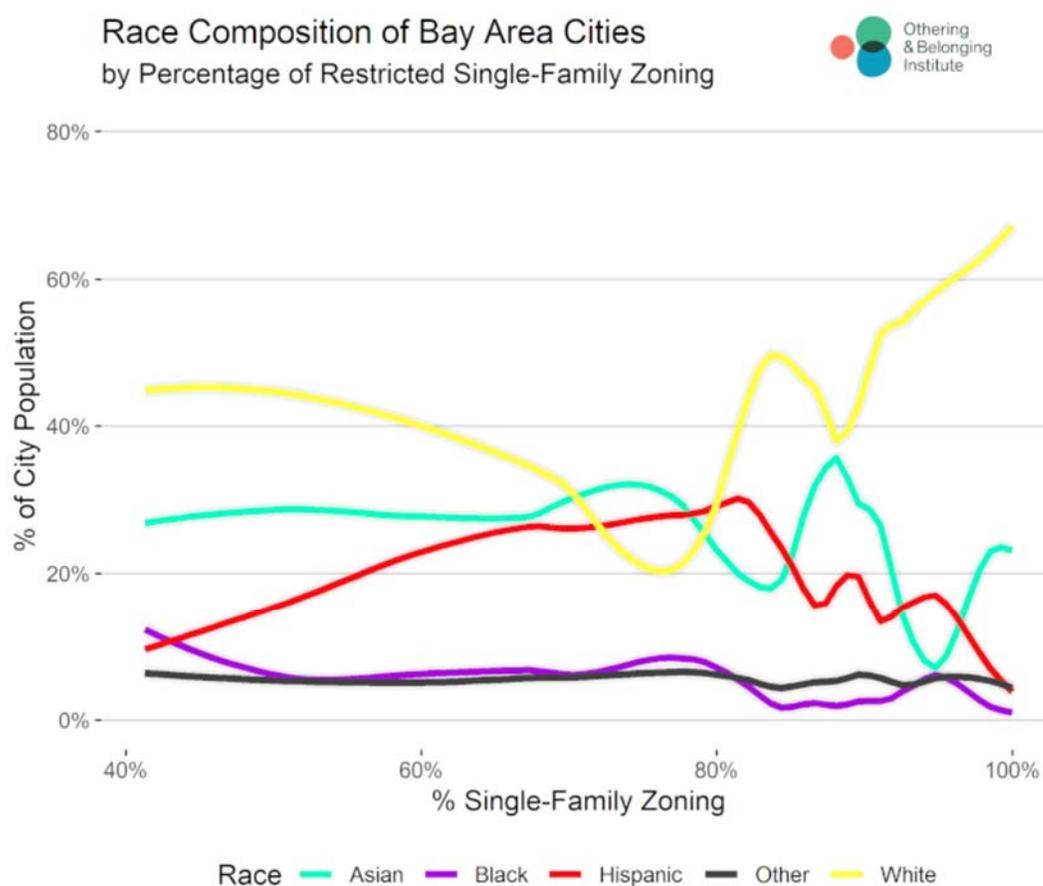
The UC Othring and Belonging Institute recently released a series of studies on racial segregation and zoning practices which revealed that 83% of residential land in the Bay Area is zoned for single family homes. The purpose of these studies was to,

Raise public awareness about the degree of segregation that persists in the Bay Area and the harmful effects that result from it. Despite the enduring significance of race and salience of racial inequality in the Bay Area, too often racial residential segregation itself is not a part of the discussion for remedying persistent racial disparities. In a period in which systemic and structural racism is a widespread societal concern, there is insufficient attention to the centrality of racial residential segregation to the production of racial inequality.³⁹

The authors found that the ramifications of restrictive zoning practices leads to a greater percentage of white residents, as recounted in KQED's "The Racist History of Single

³⁹ Menendian, S., Gambhir, S. and Gailles, A. (2020) *Racial Segregation in the San Francisco Bay Area, Part 5*. UC Othring and Belonging Institute. <https://belonging.berkeley.edu/racial-segregation-san-francisco-bay-area-part-5>

Family Zoning.”⁴⁰ By banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses, in low-density, “desirable” places in Berkeley, the current zoning map dictates that predominantly wealthier families will be able to live or rent in certain parts of Berkeley, mainly in North and East Berkeley. In a recent Turner Center analysis of land use politics, housing costs and segregation, researchers found that rents tend to be higher in jurisdictions with stringent lot size requirements compared to jurisdictions that are more lenient. Rothwell further found that “the share of land zoned for single-family detached use predicts higher housing home values and larger homes.”⁴¹ Today, with the median home sale price at \$1.4 million⁴² and the typical White family having eight times the wealth of the typical Black family, this de-facto form of segregation is even more pronounced.⁴³



⁴⁰ Baldassari, E. and Solomon, M. (2020). *The Racist History of Single Family Zoning*. KQED. <https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

⁴¹ Rothwell, Jonathan. “Land Use Politics, Housing Costs, and Segregation in California Cities.” *Turner Center for Housing Innovation*, September, 2019. <http://californialanduse.org/download/Land%20Use%20Politics%20Rothwell.pdf>

⁴² Berkeley, CA Real Estate Market. (2021). *Realtor*. https://www.realtor.com/realestateandhomes-search/Berkeley_CA/overview

⁴³ *Survey of Consumer Finances* (2020). Federal Reserve. <https://www.federalreserve.gov/econres/scfindex.htm>

Furthermore, the intensity of land use coupled with opposition to development predicts a lower share of Black, Hispanic, and blue collar workers living in the area.⁴⁴ Communities with more restrictive land uses like single family zoning create cities with whiter residents. As Jessica Trounstone, political scientist and author of *Segregation by Design and Political Monopolies* states, “It is this maintenance of homogeneity that generates segregation across city lines.” In other research, Trounstone found that more restrictive land use policies predict communities that are whiter, on average, than their surrounding metropolitan areas, even controlling for their demographic makeup years earlier.⁴⁵

According to the data mapped by UC Berkeley’s Urban Displacement Project, most of the low-income tracts in Berkeley are at-risk or have ongoing displacement and gentrification. Higher-income tracts in Berkeley are classified as ‘at-risk of exclusion’, currently feature ‘ongoing exclusion’, or are at stages of ‘advanced exclusion’. Degrees of exclusion are measured by a combination of data: the loss of low-income households over time, presence of high income households, being considered in a ‘hot housing market,’ and migration patterns. The Urban Displacement Project’s findings indicate that exclusion is more prevalent than gentrification in the Bay Area.⁴⁶ While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

University of California-Berkeley Professor Karen Chapple, anti-displacement expert and director of the Urban Displacement Project, stated that “the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC), and 75% of today’s exclusionary areas in the East Bay... Thus, this historic legacy, compounded by Berkeley’s early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today.” Not surprisingly, Chapple has indicated that zoning reform “has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today.”⁴⁷

⁴⁴ Rothwell, J. (2019, September). *Land Use Politics, Housing Costs, and Segregation in California Cities*. Turner Center for Housing Innovation.

<http://californialanduse.org/download/Land%20Use%20Politics%20Rothwell.pdf>

⁴⁵ Trounstone, J. (2020, February). *The Geography of Inequality: How Land Use Regulation Produces Segregation* Cambridge University Press. <https://www.cambridge.org/core/journals/american-political-science-review/article/geography-of-inequality-how-land-use-regulation-produces-segregation/BAB4ABDF014670550615CE670FF66016>

⁴⁶ Zuk, M., & Chapple, K. (2015). *Mapping Displacement, Gentrification, and Exclusion in the San Francisco Bay Area*. Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>

⁴⁷ Chapple, K. (2019, February 25). Letter to Berkeley City Council in support of zoning reform. Berkeleyside. <https://www.berkeleyside.com/wp-content/uploads/2019/02/Letter-on-Council-Item-22-Chapple-2.25.19.pdf>

Historic Redlining

Redlining was a practice whereby certain neighborhoods or areas were designated as being high-risk for investment. These high-risk designations were literally marked on maps using red coloring or lines, hence “redlining.” The designations were typically applied to areas with large non-white and/or economically disadvantaged populations, and resulted in people who lived in or wanted to move to these areas being denied loans, or only being provided loans on much worse terms than their counterparts who could access non-redlined areas, due to their ethnicity or higher economic status.

Because redlining practices were contemporaneous with segregationist race-restricted deeds that largely locked communities of color out of non-redlined neighborhoods, most non-white households were effectively forced to live in areas where buying and/or improving residential property was extremely difficult. Consequently, low-income and non-white families were often locked out of homeownership, and all the opportunities for stability and wealth-building that entails. Therefore, redlining tended to reinforce the economic stagnation of the areas to which it was applied, further depressing property values and leading to disinvestment. Although redlining is no longer formally practiced in the fashion it was historically, its effects continued to be felt in wealth disparities, educational opportunity gaps, and other impacts.

One way in which the practice of redlining continues to be felt is through the continuation of exclusionary zoning. By ensuring that only those wealthy enough to afford a single family home with a relatively large plot of land could live in certain areas, exclusionary zoning worked hand in hand with redlining to keep low-income families out of desirable neighborhoods with good schools and better economic opportunity. Cities, including Berkeley, adopted zoning that effectively prohibited multi-family homes in the same areas that relied on race restrictive deeds to keep out non-whites, meaning that other areas, including redlined areas, were more likely to continue allowing multi-family buildings. Economists Enrico Moretti and Chiang Tai Hsieh have estimated that strict zoning laws and other restrictive land use policies have inflated housing prices so much it lowered aggregate growth by 50% from 1964-2009.⁴⁸

Ironically, because these patterns of zoning have persisted, many areas that were historically redlined are now appealing areas for new housing development precisely because they have continued to allow multi-family homes. Any area which sees its potential housing capacity increase will become more appealing for new housing development. When these changes are made in historically redlined areas where lower-

⁴⁸ “Housing Constraints and Spatial Misallocation” Hsieh, Chang-Tai and Enrico Moretti, *National Bureau of Economic Research*, https://www.nber.org/system/files/working_papers/w21154/w21154.pdf

income and minority households tend to be more concentrated, it is especially important to ensure those policies do not result in displacement or the loss of rent-controlled or naturally affordable housing units. Nevertheless, the City of Portland, which is undergoing similar zoning reform, has predicted that there will be a 21-28% reduction of indirect displacement for low-income renters.⁴⁹

Current Discourse on Exclusionary Zoning Regulations

In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. The final legislation passed by Council was an agreement to **study** how the City of Berkeley can incorporate varying building types throughout Berkeley and address exclusionary practices. While the entire City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council additionally supported Senate Bill 902, which streamlines rezoning for missing middle housing in transit-oriented or jobs-rich areas.⁵⁰

Exclusionary zoning laws also became a prevalent national topic during the 2020 Presidential campaign under the guise of “protect[ing] America’s suburbs.”⁵¹ Celebrity Apprentice host and former President Donald Trump and his Housing and Urban Development Secretary Ben Carson expressed a concern that removing exclusionary zoning laws would prevent single family home ownership and “destroy suburbs” despite the fact that these reforms don’t bar single family home construction but allow the creation of duplexes, triplexes, and other multi-unit properties. Furthermore, exclusionary zoning practices were amplified with the termination of the 2015 Obama-era Fair Housing rule which outlawed discrimination in housing. In doing so, Trump stated that Democrats wanted to “eliminate single-family zoning, bringing who knows into your suburbs, so your communities will be unsafe and your housing values will go down.”⁵² On the other hand, Democratic Presidential candidates embraced zoning reform, most notably Elizabeth Warren and Cory Booker. President Biden has also

⁴⁹City of Portland Bureau of Planning and Sustainability. (2019, February). *Residential Infill Project Displacement Risk and Mitigation* https://www.portland.gov/sites/default/files/2019-12/vol_3_appendix_b_displacement_risk_and_mitigation.pdf

⁵⁰Wiener, S. and Atkins, T. (2020) *Senate Bill 902*. California Legislative Information. https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB902

⁵¹ Trump, D.J. and Carson, B. (2020) *We’ll Protect America’s Suburbs*. Wall Street Journal. <https://www.wsj.com/articles/well-protect-americas-suburbs-11597608133>

⁵² Kurtzleben, D. (2020, July 21). *Seeking Suburban Votes, Trump to Repeal Rule Combating Racial Bias in Housing*. National Public Radio <https://www.npr.org/2020/07/21/893471887/seeking-suburban-votes-trump-targets-rule-to-combat-racial-bias-in-housing>

indicated that he plans to invest \$300 million in local housing policy grants to give communities the planning support they need to eliminate exclusionary zoning.⁵³

Finally, on February 23, 2021, Berkeley City Council unanimously voted to undo the legacy of exclusionary zoning and permit multi-family housing throughout residential neighborhoods in Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The authors considered passing a budget referral to fund another study for missing middle housing. However, given the new Regional Housing Needs Allocations, the pending Housing Element update in 2022, and the scarcity of housing for individuals and families throughout the Bay Area, we felt the need to act immediately and not wait to study this issue.

FINANCIAL IMPLICATIONS

Costs for consultants to provide additional analysis can range from \$25,000-\$100,000. However, staff should also consider augmenting existing work on the Housing Element update and density standards study to align with the objectives of this legislation.

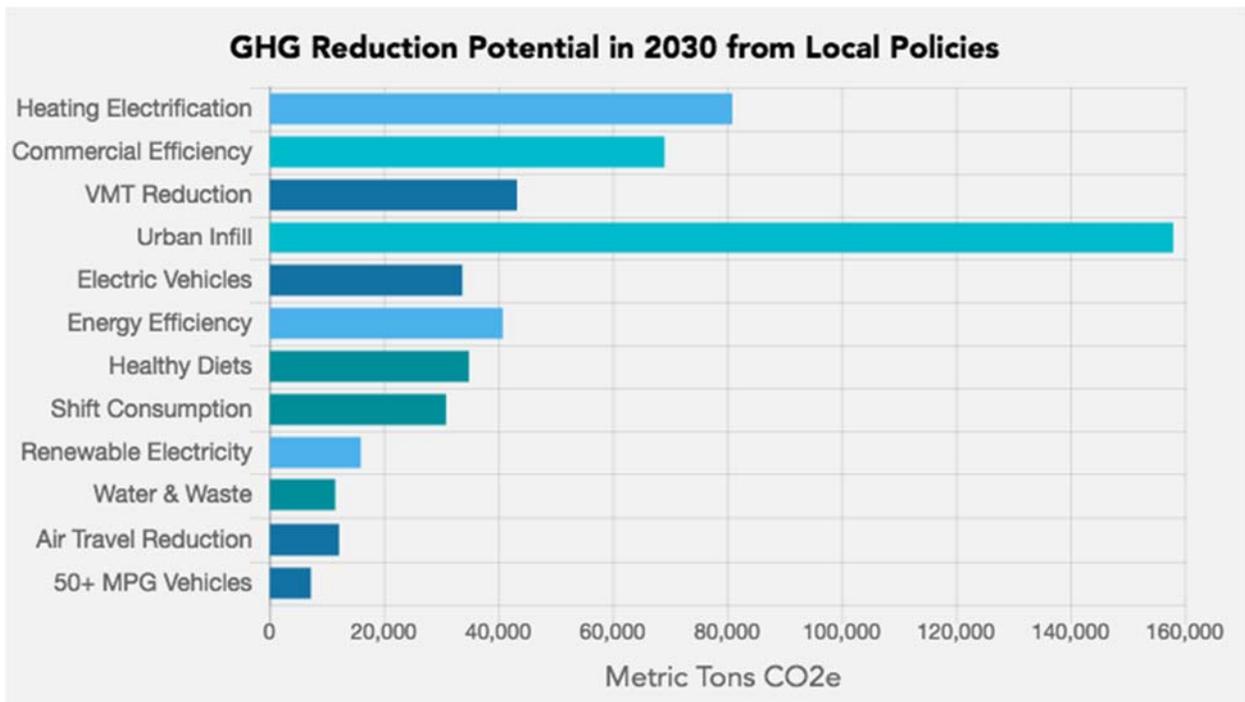
ENVIRONMENTAL SUSTAINABILITY

In 2006, Berkeley voters adopted ballot Measure G for a call to action on climate change. In 2009, the Berkeley Climate Action Plan was written through a community-wide process and adopted by Council. Berkeley reiterated concern by declaring a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. In 2018, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”⁵⁴ The most impactful local policy to potentially reduce greenhouse gas consumption by 2030 is urban infill. In short, Berkeley can meaningfully address climate change if we allow the production of more homes near job centers and transit.⁵⁵

⁵³ “The Biden Plan for Investing in Our Communities Through Housing.” (2020) <https://joebiden.com/housing/>

⁵⁴ Jones, C.M., Wheeler, S.M, and Kammen, D. (2018) *Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities*. Urban Planning (ISSN: 2183–7635). Volume 3, Issue 2. <https://rael.berkeley.edu/wp-content/uploads/2018/04/Jones-Wheeler-Kammen-700-California-Cities-Carbon-Footprint-2018.pdf>

⁵⁵ Wiener, S. and Kammen, D. (2019, March 25). *Why Housing Policy Is Climate Policy*. New York Times. <https://www.nytimes.com/2019/03/25/opinion/california-home-prices-climate.html>

**CONTACT PERSON(S):**

Lori Droste, 510-981-7180

CONTACT PERSON(S):

Lori Droste, 510-981-7180

ATTACHMENTS:

- 1. Resolution Passed by Berkeley City Council on February 23, 2021
(Attachment 1)**
- 2. Dan Parolek's Berkeleyside Op-Ed on Missing Middle Design**
- 3. Professor Karen Chapple from the Urban Displacement Project Letter to
Council on February 23, 2021**

Attachment 1:**RESOLUTION NO. XX****DECLARING THE INTENT OF THE CITY COUNCIL TO ALLOW MULTI-FAMILY HOUSING IN RESIDENTIAL NEIGHBORHOODS THROUGHOUT BERKELEY**

WHEREAS the City of Berkeley was the first city in the country to implement single-family zoning in 1916; and

WHEREAS the City of Berkeley's current zoning is still greatly influenced by maps developed by the federal government's Home Owners Loan Corporation which sought to maintain racial segregation through discriminatory lending practices; and

WHEREAS downzoning initiated by the Neighborhood Preservation Ordinance in 1973, restricted the creation of multifamily units in some residential zones; and

WHEREAS escalating income and wealth inequality, the prohibition of apartments and multi-family homes in the City of Berkeley coincide with the most unaffordable neighborhoods and the origins of the City's affordability crisis starting in the late 1970s after the passage of Proposition 13; and

WHEREAS there is deeply racist history to zoning practices all over the country, particularly as a proxy for overt racial restrictions, and inequities still exist today as a result of redlining; and

WHEREAS exclusionary zoning has created de facto rather than de jure racial and economic segregation, which creates strong adverse effects in life outcomes for residents; and

WHEREAS California ranks 49th out of 50th in the nation for housing units per capita; and

WHEREAS California home prices and rents are among the highest in the United States; and

WHEREAS both market rate housing and subsidized housing, in addition to strong tenant protections and demolition controls, reduce displacement pressures; and

WHEREAS zoning reform, when coupled with other policies, does not ban single family homes but allows for a greater mix of home types and income levels in more Berkeley neighborhoods; and

WHEREAS, reforms to Berkeley's residential zoning must ensure that units subject to rent control are not lost due to demolition, that demolition is generally disfavored for environmental

and contextual reasons, and that historically designated properties are protected in accordance with federal, state and local standards; and

WHEREAS, public safety, in particular in the face of earthquakes, fires, and sea level rise, many of which are exacerbated by climate change, is of critical importance; and

WHEREAS zoning reform can reduce real housing cost-burdens for low- and middle-income households; and

WHEREAS the League of California Cities called for cities to allow up to fourplexes in single family zones in their *Blueprint for More Housing 2020*;

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley registers its intent to allow for more multifamily housing throughout Berkeley; and

BE IT FURTHER RESOLVED that City Council will pursue zoning reform that takes into account the public safety in all parts of Berkeley,

BE IT FURTHER RESOLVED that in neighborhood interiors that already contain a mix of housing types from single family homes to apartments, allow new housing within that existing range; and

BE IT FURTHER RESOLVED that the elimination of exclusionary zoning by 2022 in order to meet state-mandated Regional Housing Needs Allocations requirements must coincide with strong anti-displacement, anti-speculation, and tenant protections; and

BE IT FURTHER RESOLVED that the City of Berkeley encourage inclusion of homes in all neighborhoods of Berkeley that can accommodate families in new and rehabilitated multifamily housing developments; and

BE IT FURTHER RESOLVED that the City of Berkeley will no longer ban multi-family housing, and by extension, affordable housing in certain parts of Berkeley.

BE IT FURTHER RESOLVED, that as part of zoning reform, the Council and Planning Commission should consider methods such as division, contextual addition, and adaptive reuse over demolition, ensure that new development resulting from such changes does not demolish any rent-controlled or below market-rate housing, and explore incentives for projects to contribute to the need for affordable housing; and

BE IT FURTHER AND FINALLY RESOLVED, the City Council is fully committed to carrying out a robust community process, including residents of affected neighborhoods, in the development of zoning changes, as has been done in other cities that have initiated zoning reform.

Attachment 2:

Berkeleyside

Opinion: We can design our way out of Berkeley's housing crisis with 'missing middle' buildings

A Berkeley architect argues that Berkeley should build more small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments.

By Daniel Parolek

Dec. 19, 2017

Berkeley's housing problems have gone national recently, as The New York Times' Conor Dougherty highlighted in a thought-provoking article, "The Great American Single-Family Home Problem." Dougherty examines the conflicting interests and regulations that threatened to halt the development of one lot on Haskell Street, and shows how those conflicting forces are contributing to the affordable housing crisis we are seeing in our state – and across the country.

As an architect and urban designer based in Berkeley for the past 20 years, I agree that California municipalities have an urgent need to deliver more housing. That said, just delivering more housing is not enough. We need to think about how this housing reinforces a high quality built environment and how to provide a range of housing for all segments of the market, including moderate and low-income households. More small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments, or what I call "Missing Middle Housing," should be a key focus of that housing.

Unfortunately, the design proposed for the Haskell Street site in Berkeley does not deliver on reinforcing a high quality built environment or affordability and, as the NYT article makes clear, does not deliver on any level of affordability. There are better design solutions that deliver a more compatible form, that have more and a broader range of housing units, and that can be more effective at building local support for this and similar infill projects.

For example, the 50' x 150' lot at 310 Haskell Street is big enough to accommodate a traditional fourplex, with two units down and two units above in a building that is the scale of a house (see image attached from our Missing Middle research). The units

would typically be between 750-900 square feet each. An important characteristic of this housing type is that they do not go deeper onto the lot than a traditional house, thus eliminating the concern about privacy and shading and providing high-quality outdoor living spaces. These fourplex housing types exist all over Berkeley and are often successfully integrated onto blocks with single-family homes.

So how do we get there? Berkeley and most cities across the country need to sharpen their pencils on their outdated zoning codes, first to remove barriers for better solutions and secondly, to create a set of regulations that ensure that inappropriate design solutions like the one proposed for Haskell Street or even worse are not allowed on these sites. Lower densities do not equal better design solutions and higher densities do not need to mean larger or more buildings. This is a delicate balance that few zoning codes achieve and few code writers fully understand.

We also need to change the way we communicate about housing needs in our communities. If we are using George Lakoff's rules for effective communication we would never go into a housing conversation with a community and use terms like "increasing density, adding multi-family, or upzoning a neighborhood." I can think of few neighborhoods that would feel good about saying yes to any of those options if they were framed in that way, but which can mostly get on board with thinking about aging within a neighborhood, or ensuring their kids or grandkids can afford to move back to the city they grew up in. Beginning this conversation by simply showing photographic and/or local existing documented examples of good Missing Middle housing types often disarms this conversation and leads to more fruitful results.

Berkeley's challenges related to housing are not going to go away anytime soon. We need to thoughtfully remove barriers to enable a broad range of solutions like the fourplex that have been a core part of choices provided in our communities already and learn how to effectively build consensus and support for good design solutions such as Missing Middle housing types.

Daniel Parolek is an architect and urban designer who co-authored the book "Form-Based Codes," coined the term Missing Middle Housing (www.missingmiddlehousing.com) and speaks and consults nationally on these topics.

Attachment 3:

College of
Design Environmental
CITY AND REGIONAL PLANNING
University of California, Berkeley
228 Wurster Hall #1850
Berkeley, California 94720-1850
phone 510.642.3256
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February 23, 2021

Honorable Mayor and City Council members:

I am writing to convey my strong support for the Resolution to End Exclusionary Zoning in Berkeley by Councilmembers Droste, Taplin, Bartlett, and Robinson, Item #29 on your 2/23/21 Council agenda.

At present, there is no viable path to broad housing affordability in Berkeley. Our many policies and programs provide only a tiny fraction of the funding needed for subsidized housing production, much-needed Costa-Hawkins reform remains out of political reach, and every day we lose more “naturally-occurring” affordable housing. Only our most affluent residents get to see their children and grandchildren live in Berkeley. Single-family zoning, with its origins in systemic racism, threatens to lock us out of our own community.

In the first half of the 20th century, Berkeley’s small builders built thousands of charming duplexes, triplexes, fourplexes, and even eightplexes throughout its neighborhoods. These are now illegal in many areas. If an earthquake flattened one of these buildings, it would be easiest just to build a McMansion in its place – and in fact, this is already occurring, including in West and South Berkeley. Yet these “missing middle” building types currently house a disproportionate share of Berkeley’s low- and moderate-income households.¹

Making “missing middle” housing legal again will not fully solve Berkeley’s affordability crisis. But studies from Portland and Toronto suggest that opening up single-family zoning can result in more affordable housing – without displacement -- if cities design their regulations proactively.² Notably, the most effective way to achieve affordability is to facilitate the conversion of existing single-family housing into multiple smaller units (rather than spurring costly new construction). Cities can affect affordability by offering flexibility in requirements such as lot coverage, setbacks, and parking while also limiting unit size. To support mom-and-pop property owners, cities can also reduce impact fees, provide financial support such as loan guarantees for senior homeowners, and offer technical

¹ Droste, Taplin, Bartlett, and Robinson, *Resolution to End Exclusionary Zoning in Berkeley* (2/23/21).

² City of Portland Bureau of Planning and Sustainability, *Residential Infill Project Displacement Risk and Mitigation* (2019, February), accessed at https://www.portland.gov/sites/default/files/2019-12/vol_3_appendix_b_displacement_risk_and_mitigation.pdf; Elgin et al., *Missing Middle Housing: Development Costs and Affordability*, Report for the Urban Land Institute Curtner Urban Leaders Program (2020, September), accessed at https://ulidigitalmarketing.blob.core.windows.net/ulidcnc/sites/14/2020/09/2020-09-16_ULI-Financial-Team-Report.pdf

assistance.³ To prevent displacement, cities need proactive strategies for vulnerable renters and homeowners including education and financial assistance (fortunately, Vice Mayor Droste and Mayor Arreguín are already working on such strong anti-displacement and tenant protection measures).⁴ To achieve scale in these programs, as well as to reach more low-income homeowners, cities need to implement broadly; in the case of Berkeley, this means expanding eligibility in both exclusionary and formerly redlined neighborhoods.

However, adding affordability requirements, such as mandating affordability for one unit out of four, is not wise – yet. We have learned from the last decade of reforms to accessory dwelling unit (ADU) legislation that it takes time to get it right. With just a couple hundred ADUs now completed in Berkeley, the original goal of thousands of new ADUs seems like a distant dream. Just as was the case with ADUs a decade ago, there is no missing middle industry ready in the wings to start construction. It will take many years to build expertise, get the zoning right, and inspire homeowners to act. Adding affordability requirements creates issues of financial feasibility and regulatory burden that threaten to limit uptake. A more supportive approach, as we build familiarity with the missing middle concept and the capacity of locals to implement it, would be to carefully monitor the rent levels in units created in duplexes, triplexes, and fourplexes, intervening to preserve affordability as needed later, after the concept matures.

I urge you to vote yes on Item 29 to end exclusionary zoning in Berkeley. Please do not hesitate to call on me if any research on zoning impacts or alternatives is needed.

Sincerely,



Karen Chapple
Professor, City and Regional Planning
Carmel P. Friesen Chair in Urban Studies
Faculty Director, The Urban Displacement Project

³ One interesting avenue to explore would be offering the PACE (property-assessed clean energy) financing model to homeowners seeking to build additional, energy-efficient units.

⁴ Fortunately, SB 330 bans the demolition of affordable and rent-controlled units without replacement and offers tenants first right of return.

LINKS

Minneapolis Plan:

https://minneapolis2040.com/media/1428/pdf_minneapolis2040_with_appendices.pdf

Seattle Plan:

<http://www.seattle.gov/Documents/Departments/SeattlePlanningCommission/SPCNeighborhoodsForAllFINAL121318digital.pdf>

Sacramento's Plan:

https://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4822&meta_id=612624

<https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

<https://www.vox.com/22252625/america-racist-housing-rules-how-to-fix>

<https://www.berkeleyside.com/2021/02/17/berkeley-may-get-rid-of-single-family-zoning-as-a-way-to-correct-the-arc-of-its-ugly-housing-history>

<https://www.berkeleyside.com/2019/03/12/berkeley-zoning-has-served-for-many-decades-to-separate-the-poor-from-the-rich-and-whites-from-people-of-color>



Lori Droste
Vice Mayor, District 8

SUPPLEMENTAL AGENDA MATERIAL

For the Land Use and Economic Development Policy Committee

Meeting Date: March 1, 2021
Item Number: 1
Submitted by: Vice Mayor Lori Droste

1. The following amendments reflect the unanimous action that Council took on February 23, 2021 in approving a resolution to guide zoning revisions (Attachment 1). The following amendments reflect that unanimous vote which occurred subsequent to the previous Land Use and Economic Development Policy Committee meeting on 2/18/21:
 - a. Reiteration and restating the public safety standards that Council has already committed to with the passage of the resolution on 2/23/21.*
 - b. Explicit reference to a robust community input process, which underscores that General Plan amendments and Housing Element Updates will engage the public in the form of extensive outreach, public hearings, and engagement through the latter part of 2022.*
 - c. Expanded language on contextual additions and adaptive reuse.
 - d. Addition of guiding principles based on the spirit of the legislation and the resolution passed by Council.
 - e. Background edits
2. Consideration of an option that focuses on form based codes (building scale and the building envelope) in order to achieve predictable design standards that meet the objectives of the approved Council resolution.
3. Clarify and reiterate that the community engagement process should consider, but not mandate, incentives for ministerial approval of projects that meet objectively defined design, affordability, or other standards.
4. Inclusion of a letter of support from Professor Karen Chapple from the Urban Displacement Project.
5. Paragraph rearrangement, minor edits, and page numbers added for clarity.

*No proposal ever indicated that fire safety standards and community engagement standards would be ignored or bypassed.



Lori Droste
Vice Mayor, District 8

ACTION CALENDAR

March 1, 2021

To: Honorable Mayor and Members of the City Council

From: Vice Mayor Lori Droste, Councilmember Terry Taplin, Councilmember Rashi Kesarwani and Mayor Jesse Arreguín

Subject: Inclusive Neighborhood Zoning

RECOMMENDATION

Refer to the City Manager and Planning Commission to develop and recommend revisions to the zoning code and General Plan concurrent with a robust community process, to permit developments of *up to* four residential units in all residential zoning districts and/or alternatively, permit developments where building size is regulated and the building envelope is clearly defined with form based codes subject to the requirements below.

Public Safety Provisions

With any zoning changes, public safety is paramount. Council has already stated several times that ensuring public safety of the Berkeley community is a primary concern and passed a zoning reform resolution reaffirming that fact.¹ While zoning reform should examine all residential districts, the following criteria should apply:

- That the development is not located in areas that would contribute to increased life loss or injury based on objective geological, seismic, or wildland-urban interface fire safety standards.

¹ “Whereas public safety, in particular in the face of earthquakes, fire, and sea level rise, is of critical importance...Be it further resolved that City Council will pursue zoning reform that takes into account public safety in all parts of Berkeley.” City of Berkeley (2021) *Declaring the Intent of the City Council to Allow Multi-Family Housing in Residential Neighborhoods Throughout Berkeley*, see Attachment 1.

- That the development is not located in areas with substandard emergency vehicular access, inadequate water pressure, or are exceptionally vulnerable to severe damage or destruction from fire and earthquake hazards based on objective geological, seismic, or wildland-urban interface fire safety standards.

Design and Architectural Guidelines and Incentives

With any zoning changes, it is important to ensure housing scale by regulating maximum build height, width along the street, and depth into the lot. The following guidelines should apply during any zoning code revisions:

- That the development is not located within a historic district, is not included in the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district designated prior to Berkeley's 6th Cycle Housing Element adoption.
- For projects involving building additions or new construction, consider scaling the maximum allowable floor area ratio (FAR) to increase as the number of units increase onsite as an incentive for creating multiple smaller units, as opposed to one larger unit. Utilize zoning regulations to discourage multiple single family detached units on one lot.
- Consider permitting a variety of building types (attached, detached, bungalow courts etc.) to maximize flexibility and potential opportunities for homeownership.
- Consider zoning incentives for contextual addition and adaptive reuse. Allow for the possibility of existing homes/footprints/zoning envelopes to be divided into multiple units, potentially creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.²
- *Consider* –but do not mandate– incentives for ministerial approval.

Tenant Protections and Anti-Displacement Provisions

With any zoning changes, it is essential to ensure that existing tenants are protected and residents do not experience involuntary displacement. The following criteria should apply:

- That the proposed housing development does not require demolition or elimination of housing that is subject to a recorded covenant, ordinance, or law

² City of Portland, (2019). *About the Residential Infill Project*. <https://www.portland.gov/bps/rip/about-project>

that restricts rents to levels affordable to persons and families of moderate, low, or very low income, or which otherwise limits the rate at which rents may be increased or the circumstances under which a sitting tenant may be evicted (i.e. subsidized affordable units, inclusionary housing or units under Section 8 contract) or units subject to Berkeley's Rent Stabilization and Eviction for Good Cause Ordinance.

- That if the development would involve the demolition or renovation of any units with sitting tenants or which recently housed (within 5 years) tenants, expanded and permanent tenant protections pursuant to Government Code 66300³ would apply, including but not limited to increased relocation payments and right-to-return and relocation benefits that would also apply to tenants in rental units not covered by Berkeley's Rent Stabilization Ordinance.
- Projects involving the demolition of an existing tenant-occupied single family home or multi-unit property to create a new project shall be subject to the city's Demolition Ordinance, BMC Chapter 23C.08.
- Consider: 1) a local affordable housing density bonus for deeper affordability in certain jobs-rich or transit-oriented areas if a certain percentage or number of the units are affordable to households making 80% or less of area median income⁴ and/or 2) other zoning incentives, such as the relaxation or waiver of certain development standards, in exchange for greater levels of affordability in the form of the payment of in-lieu fees or additional affordable units, including waiving or increasing certain lot development standards.
- Prohibit ministerial approval of a project if the building was removed from the rental market under the Ellis Act during the preceding five (5) years or there have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.
- Require notice be provided to tenants of an application for demolition, elimination, subdivision, or consolidation of units.
- Prior to adoption of zoning or municipal code changes pursuant to this item, conduct a displacement risk analysis and consider possible ways that zoning

³Skinner, N. (2019). The Housing Crisis Act of 2019. *California Legislative Information*, https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=12.&article=

⁴ Jobs-rich and transit-oriented definitions should be defined by the Planning Commission in consultation with staff.

changes can be crafted to prevent and mitigate negative externalities which could affect tenants and low and moderate-income homeowners.

Council directs staff to initiate this work immediately and the Planning Commission to incorporate zoning reform into its 2021 and 2022 work plan to institute these changes in anticipation of the Housing Element update. Staff and the commission should examine how other cities have prepared for and implemented similar missing middle housing in Minneapolis, Portland, and Sacramento and conduct extensive community outreach during the course of this update. In addition, Planning staff is encouraged to seek regional, and state, and federal funding to support this work.

CURRENT PROBLEM AND ITS EFFECTS

The nine-county Bay Area region is facing an extreme shortage of homes that are affordable for working families. The Metropolitan Transportation Commission illustrates the job-housing imbalance in a report showing that only one home is added for every 3.5 jobs created in the Bay Area region.⁵ California ranks 49th in the United States for housing units per capita – only Utah creates fewer homes.⁶ Governor Gavin Newsom has called for a “Marshall Plan for affordable housing” and has pledged to create millions of more homes in California to tackle the state’s affordability and homelessness crisis.

In Berkeley, the median sale price of a home is \$1.4 million (as of January 2021) –an increase of 56% over the median sale price in December 2015 of \$895,000.⁷ These escalating costs coincided with an increase of 14% in Berkeley’s homeless population from 2017 to 2019, and a 34% increase from 2015 to 2019 point-in-time counts.⁸ These skyrocketing housing costs put extreme pressure on low-, moderate- and middle-income households, as they are forced to spend an increasing percentage share of their income on housing (leaving less for other necessities like food and medicine), live in overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

Low-Income Households Cannot Afford to Live in Berkeley

⁵ Metropolitan Transportation Commission. (2018). *Vital Signs*. <http://www.vitalsigns.mtc.ca.gov/>

⁶ Woetzel, J., Mischke, J., Peloquin, S., and Weisfield, D. (2016, October). *A Toolkit to Close California’s Housing Gap: 3.5 Million Homes by 2025*. McKinsey Global Institute, <https://www.mckinsey.com/~media/McKinsey/Industries/Public%20and%20Social%20Sector/Our%20Insights/Closing%20Californias%20housing%20gap/Closing-Californias-housing-gap-Full-report.pdf>

⁷ *Berkeley Home Prices and Values*. (2021, January). Zillow. <https://www.zillow.com/berkeley-ca/home-values/>

⁸ Applied Survey Research. (2019, September). *City of Berkeley Homeless Count and Survey, Comprehensive Report*. Everyone Home. https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. The U.S. Department of Housing and Urban Development (HUD) defines "affordable" as housing that costs no more than 30 percent of a household's monthly income. Households are considered to be "rent burdened" when more than a third of their income goes toward housing costs. In Alameda County, rent burdens increased across all incomes but it increased most substantially for low- and very low-income households. The Urban Displacement Project reported that "[i]n both 2000 and 2015, extremely low-income renters were by far the most likely to experience severe rent burden, with nearly three quarters spending more than half their income on rent."⁹

Although residents of Berkeley passed Measure O in 2018 which substantially increased funding for affordable housing, low-income units are increasingly expensive to create. Low-income housing units typically cost well over \$500,000 to create and the demand for this type of subsidized housing exceeds the supply.¹⁰ Without a substantial additional increase in funding, Berkeley will be increasingly challenged to create enough subsidized affordable housing to meet the demand. For example, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings in Berkeley. This project cost \$18 million to build.¹¹ While Berkeley should continue to support subsidized housing, subsidized housing alone is insufficient to address the growing housing and homelessness crisis, especially considering the majority of low-income individuals only have access to non-subsidized affordable housing.

Middle-Income Households Can't Afford to Live in Berkeley

In the Bay Area, those earning middle incomes are facing similar challenges in finding affordable homes. The Pew Research Center classifies middle income households as those with "adults whose annual household income is two-thirds to double the national median." In 2018, middle income households were those earning approximately \$48,500 to \$145,500 for a household of three. The Bay Area is one of the most expensive areas, with a price level that was 31.6% higher than the national average. As a result, a Bay Area household needs a reported income of about \$63,800, or approximately \$15,000 more than the U.S. norm, to join the middle class.¹²

⁹ UC Berkeley's Urban Displacement Project and the California Housing Partnership. (2015). Rising Housing Costs and Resegregation in Alameda County, *Urban Displacement Project*. http://www.urbandisplacement.org/sites/default/files/images/alameda_final.pdf

¹⁰ Claros, M. (2020, March 20). The Cost of Building Housing *The Terner Center*, <https://ternercenter.berkeley.edu/construction-costs-series>

¹¹ Flood, L. (2018, January 18). *Berkeley low-income seniors get a fresh start at Harper Crossing*. BerkeleySide, <https://www.berkeleyside.com/2018/01/18/berkeley-low-income-seniors-get-fresh-start-harper-crossing>

¹² Ibid.

In the Bay Area, a family currently has to earn ~\$200,000 annually to afford the principal, interest, taxes and insurance payments on a median-priced home in the Bay Area (assuming they can pay 20 percent of the median home price of \$1.4 million up front).¹³ This means that many City of Berkeley employees can't afford to live where they work: a fire captain (making \$144,000) with a stay at home spouse wouldn't be able to afford a home. Even a firefighter (earning \$112,000 annually) and a groundskeeper (making \$64,000), or two librarians (making \$89,000 each) couldn't buy a house.¹⁴

Berkeley Unified School District employees have recently been advocating for teacher housing. Unfortunately, the housing options for teachers are insufficient for the overwhelming need. According to a recent Berkeley Unified School District (BUSD) survey, 69% of teachers or staff who rent believe that high housing costs will impact their ability to retain their BUSD positions.¹⁵ Since individual K-12 teacher salaries average ~\$78,700, the majority of teachers are not classified as low-income, according to Housing and Urban Development guidelines.¹⁶ As a result, many cannot qualify for affordable housing units. Since middle-income individuals and families can't qualify for affordable housing units and very few subsidies are available to help, the vast majority have to rely on non-governmental subsidized methods and the private market to live in the Bay Area.

Families Are Struggling to Live in Berkeley

Many families are fleeing the Bay Area due to the high cost of living. According to a study by the Turner Center for Housing Innovation, the income and racial patterns of out-migration and in-migration indicate that "the region risks backsliding on inclusion and diversity and displacing its economically vulnerable and minority residents to areas of more limited opportunity."¹⁷ Rent for a two-bedroom apartment in Berkeley costs approximately \$2,070/month¹⁸ while the median child care cost in Alameda County is

¹³ *The salary you must earn to buy a home in the 50 largest metro.* (12/20/2020). HSH. <https://www.hsh.com/finance/mortgage/salary-home-buying-25-cities.html#>

¹⁴ *Job Descriptions.* (2021) City of Berkeley Human Resources, <http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568>

¹⁵ *BUSD Employee Housing Survey* (2017, November 17). Berkeley Unified School District. <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3Adfd74865-9541-4ff8-b6a6-4dcbd30acdc3>

¹⁶ *Teacher Salaries.* (2020). Education Data Partnership, <http://www.ed-data.org/district/Alameda/Berkeley-Unified>

¹⁷ Romem, I and Kneebone, E. (2018). *Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?* Turner Center. <https://turnercenter.berkeley.edu/disparity-in-departure>

¹⁸ Chen, C. (2021, January 27). *San Francisco Bay Area Metro Report.* Zumper. <https://www.zumper.com/blog/san-francisco-bay-area-metro-report/>

\$1,824 a month, an increase of 36% in the past four years.¹⁹ Consequently, most families are paying well over \$46,000 for living and childcare expenses alone.

Homelessness is on the Rise in the Bay Area

High housing costs also lead to California having among the highest rates of poverty in the nation at 17.2%.²⁰ Consequently, homelessness is on the rise throughout California. The Bay Area has one of the largest and least-sheltered homeless populations in North America.²¹ The proliferation of homeless encampments—from select urban neighborhoods to locations across the region—is the most visible manifestation of the Bay Area’s extreme housing affordability crisis. According to the 2019 point-in-time count, Berkeley had approximately 1,108 individuals experiencing homelessness on any given night.²² In order to act in accordance with best practices research on alleviating homelessness and help homeless individuals get housed, the City needs to create more homes.²³ Tighter housing markets are associated with higher rates of homelessness, indicating that the creation of additional housing for all income levels is key to mitigating the crisis.²⁴ In the 1,000 Person Plan to Address Homelessness, Berkeley’s Health, Housing and Community Services staff recommend that Council prioritizes “implementing changes to Berkeley’s Land Use, Zoning, Development Review Requirements for new housing with an eye toward alleviating homelessness.”

BACKGROUND

In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. The final legislation passed by Council was an agreement to **study** how the City of Berkeley can incorporate varying building types throughout Berkeley and address exclusionary practices. While the entire

¹⁹ D'Souza, K. (2019, February 3) *You think Bay Area housing is expensive? Child care costs are rising, too.* The Mercury News <https://www.mercurynews.com/2019/02/03/you-think-bay-area-housing-is-expensive-childcare-costs-are-rising-too/amp/>

²⁰ Fox, L. (2020, September) *The Supplemental Poverty Measure 2019*, The Census. <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-272.pdf>

²¹ Turner, M. (2017, October 23). *Homelessness in the Bay Area: Solving the problem of homelessness is arguably our region’s greatest challenge.* SPUR: Ideas and Action for a Better City. <https://www.spur.org/publications/urbanist-article/2017-10-23/homelessness-bay-area>

²² Applied Survey Research. (2019, September). *City of Berkeley Homeless Count and Survey, Comprehensive Report.* Everyone Home. https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf

²³ *The Evidence behind Approaches that Drive an End to Homelessness.* (2017, December). United States Interagency Council on Homelessness https://www.usich.gov/resources/uploads/asset_library/evidence-behind-approaches-that-end-homelessness.pdf

²⁴ Quigley, J.M., Raphael S., and Smolensky, E. (2001, February). *Homeless in America, Homeless in California. The Review of Economics and Statistics* https://urbanpolicy.berkeley.edu/pdf/qrs_restat01pb.pdf

City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council additionally supported Senate Bill 902, which streamlines rezoning for missing middle housing in transit-oriented or jobs-rich areas.²⁵

Regional Housing Needs Allocations

In January 2021, the Association of Bay Area Governments voted to approve the implementation of Senate Bill 828 which was designed to address the extreme housing shortage across California. As a result, Bay Area cities will have to zone for 441,000 new homes. Berkeley will see a 19% increase — approximately 8,900 — in the number of homes for which it must zone.

Inclusive Neighborhood Missing Middle Housing

1. A range of clustered or multi-unit housing types often similar in size, scale, and design to single-family homes.
2. Housing types that are naturally affordable and less expensive than most housing options available within Berkeley.

The current housing market has led to “barbell” housing delivery. That is, new units tend to be highly-priced (market rate or luxury) or highly subsidized (affordable). Consequently, the majority of the population can’t access missing middle homes because the dearth of funding, scarcity of land, and high construction costs impose challenges on viability. One study found that individuals trying to create missing middle housing cannot compete financially with larger projects in areas zoned for higher density, noting “many smaller developers have difficulty obtaining the necessary resources, including the competitive funding, required to offset the high initial per-unit development costs, and larger developers with deeper pockets and more experience navigating complex regulatory systems will almost always opt to build projects that are large enough to achieve the bulk per-unit development rate.”²⁶

Additionally, missing middle housing is not permitted in areas zoned R1 (single family family and one accessory dwelling unit only), R1A (limited two family), and R2 (restricted two family). Other factors that may prevent the creation of missing middle housing include lot coverage ratios and setback and parking requirements.²⁷

²⁵Wiener, S. and Atkins, T. (2020) *Senate Bill 902*. California Legislative Information. https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB902

²⁶ The Montgomery Planning Dept., “The Missing Middle Housing Study,” September 2018. http://montgomeryplanning.org/wp-content/uploads/2018/09/MissingMiddleHousingStudy_9-2018.pdf

²⁷ Ibid.

According to the U.S. Census American Community Survey, newly built missing middle housing like duplexes, triplexes, and fourplexes more often houses middle and lower income families in Berkeley, while single-family homes, no matter what year built, are exclusively higher income.

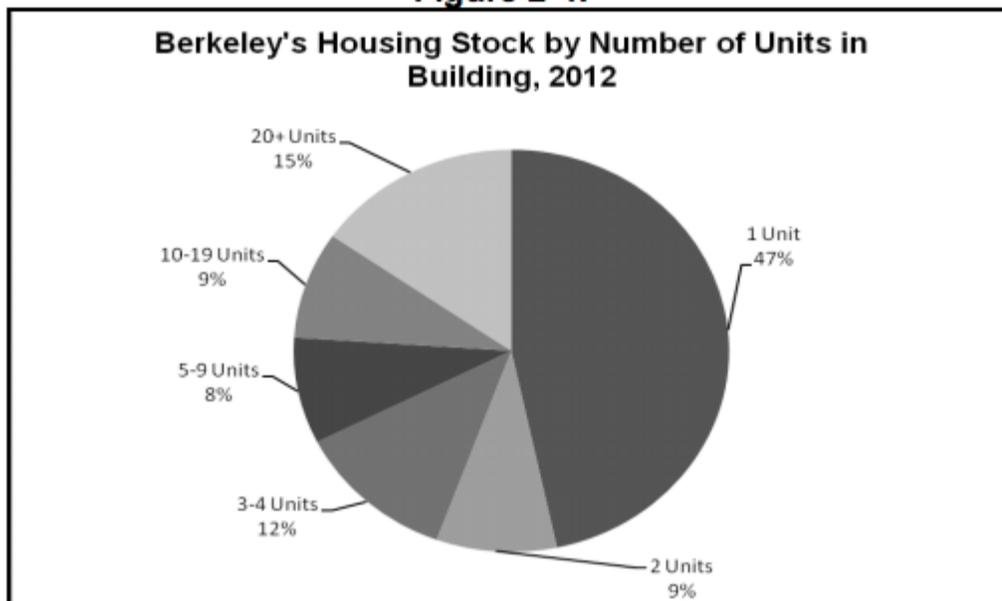
Median household income, Berkeley & Albany, by building age & type					
	Pre-1950	1950-1969	1970-1989	1990-2004	2005-
Single-family detached	148,590	139,295	107,081	131,004	148,835
Single-family attached	84,903	126,930	96,233	167,025	134,460
2-4 units	79,012	63,973	53,335	45,403	48,691
5-19 units	46,037	41,104	39,811	42,243	27,950
20+ units	25,628	42,319	41,387	23,585	40,518

Source: American Community Survey, 2014-18, Public Use Microdata Set, US Census.

Missing middle housing generally has small- to medium-sized footprints and are often two stories or less, allowing them to blend into the existing neighborhood while still encouraging greater socioeconomic diversity. One home within missing middle housing forms is less expensive than comparable single family homes, leading to greater accessibility to those earning median, middle, or lower incomes. The median price of a single family home in Berkeley is \$1.4 million, which is out of reach for the majority of working people.²⁸ While some may erroneously argue that the *only* way to address the needs of low- or moderate- income families is to provide subsidized housing, ample research indicates this is not the case because the distribution of land costs can be spread across multiple units and construction costs are lower.

²⁸ Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

Figure 2-4:



Source: US Census, ACS 2008-2012 5-Year Estimate., Table B25024

Approximately half of Berkeley's housing stock consists of single family units²⁹ and more than half of Berkeley's residential land is zoned in ways that preclude most missing middle housing. As a result, today, mainly wealthy households can afford homes in Berkeley.

History of Exclusionary Zoning, Racial and Economic Segregation, and Current Zoning

Single family residential zoning was born in Berkeley in the Elmwood neighborhood in 1916. This zoning regulation forbade the construction of anything other than one home per lot. In 1915, Berkeley's City Attorney Frank V. Cornish wrote, "Apartment houses are the bane of the owner of the single family dwelling" while the consultant who penned Berkeley's zoning ordinance stated, "[The] great principle of protecting the home against the intrusion of the less desirable and floating renter class."³⁰ Subsequently, the Mason McDuffie Company's use of Berkeley's zoning laws and racially-restrictive property deeds and covenants prevented Black, Indigenous, and People of Color from purchasing or leasing property in east Berkeley.³¹

²⁹ City of Berkeley 2015 -2023 Housing Element.

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf

³⁰ Cornish, F.V. *The Legal Status of Zone Ordinances* and Cheney, C. *The Necessity for a Zone Ordinance in Berkeley*. Berkeley Civic Bulletin, May 18, 1915.

³¹ Wollenberg, C. (2008) *Berkeley, A City in History*, University of California Press.

Mason-McDuffie race-restrictive covenants stated, “if prior to the first day of January 1930 any person of African or Mongolian descent shall be allowed to purchase or lease said property or any part thereof, then this conveyance shall be and become void...”³² In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the “disastrous effects of uncontrolled development”³³ and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.³⁴ After *Buchanan v Warley* in 1917, explicit racially restrictive zoning became illegal. However, consideration to maintaining the character of districts became paramount and Mason-McDuffie contracts still stipulated that property owners must be white.

In 1933, the federal government created a Home Owners Loan Corporation (HOLC), which produced residential maps of neighborhoods to identify mortgage lending risks for real estate agents, lenders, and others. These maps were based on racial composition, quality of housing stock, access to amenities and were color coded to identify best (green), still desirable (blue), definitely declining (yellow), and hazardous (red) neighborhoods. HOLC maps enabled discriminatory lending practices—later called ‘redlining’—and allowed lenders to enforce local segregation standards.³⁵ These maps extensively referenced single-family zoning as on par with racial covenants in appreciating property values, unaffordability and excluding people of color. For example, the Berkeley Hills was described as, “zoned first residential, single family, deed restrictions prohibit Asiatics and Negroes.”

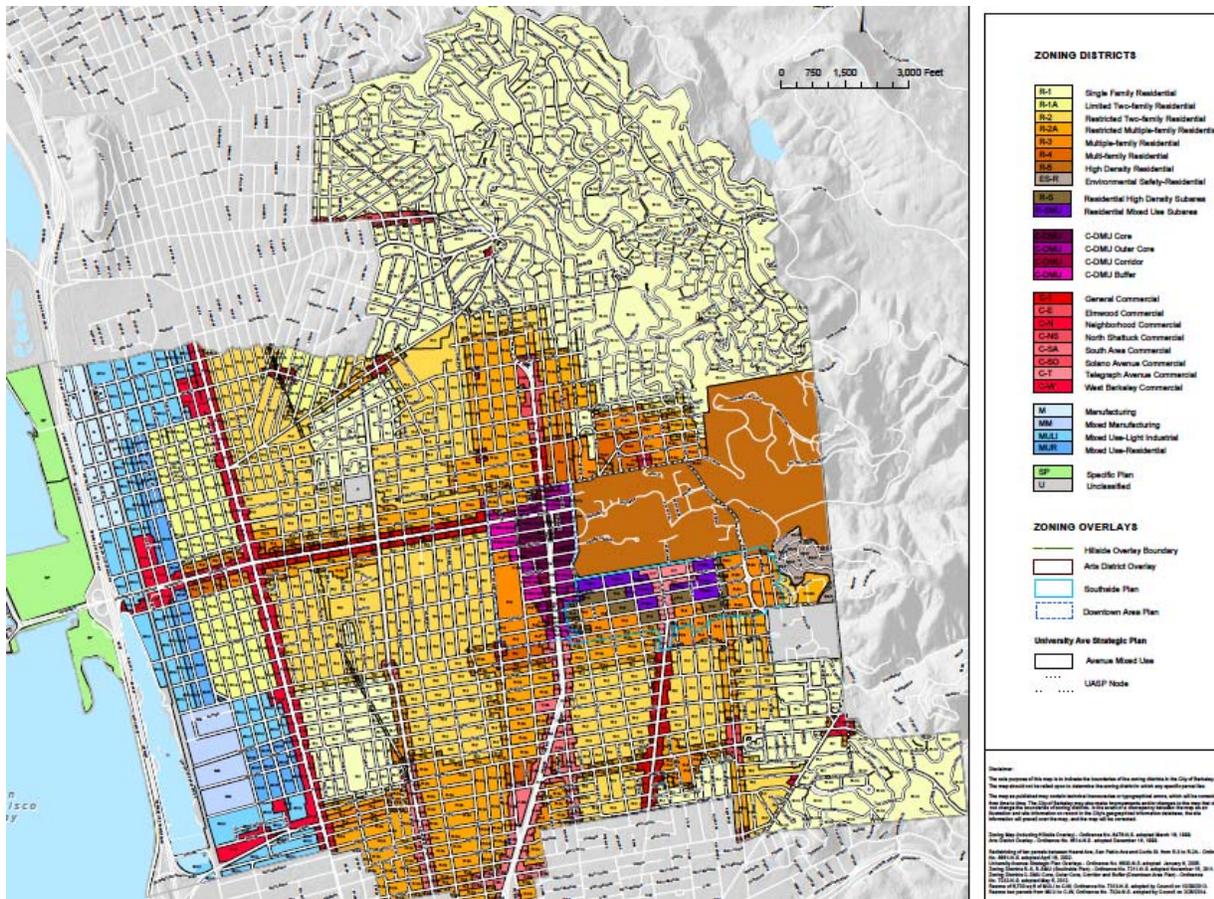
³² Claremont Park Company Indenture. (1910).

³³ Lory, M. T. (2013). A History of Racial Segregation, 1878–1960. *The Concord Review* 24(2). <http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf>

³⁴ Weiss, M. A. (1986). Urban Land Developers and the Origins of Zoning Laws: The Case of Berkeley. *Berkeley Planning Journal*, 3(1). <https://escholarship.org/uc/item/26b8d8zh>

³⁵ Mitchell, B. and Franco, J. (2018). *HOLC “REDLINING” MAPS: The persistent structure of segregation and economic inequality*. NCRC Opening Doors to Economic Opportunity, https://ncrc.org/wp-content/uploads/dlm_uploads/2018/02/NCRC-Research-HOLC-10.pdf





The images above compare a HOLC-era (Thomas Bros Map) map of Berkeley with a current zoning map. Neighborhoods identified as “best” in green on the HOLC-era map typically remain zoned as single family residential areas today. Red ‘hazardous’ neighborhoods in the first map are now largely zoned as manufacturing, mixed use, light industrial, or limited two family residential.³⁶

In 1963, Berkeley also voted down an ordinance to prevent racial housing discrimination as recounted in “Segregation Western Style.”³⁷ Berkeley’s post-war growth and housing policy was shaped and mired in racist policies and real estate practices. This was one of the main reasons for racial segregation in Berkeley.³⁸

Prior to the 1970s and the passage of the Neighborhood Preservation Ordinance, a variety of missing middle housing –duplexes, triplexes, and other smaller multi-unit building typologies–was still being produced and made available to families throughout

³⁶ Nelson, R.K, Winling, L., Marciano, R, Connolly, N. et al., *Mapping Inequality, Redlining in New Deal America*. American Panorama.

<https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&adview=full>

³⁷ Segregation Western Style. (1963). *Bay Area Television Archive*.

<https://diva.sfsu.edu/collections/sfbatv/bundles/223879>

³⁸ Daniels, D.H. (2013, May). *Berkeley Apartheid: Unfair Housing in a University Town*. History Research, ISSN 2159-550X, Vol. 3, No. 5, 321-341, <https://www.berkeleyside.com/wp-content/uploads/2016/02/Apartheid-in-a-University-Town.pdf>

the Bay Area, particularly in Berkeley. In 1973, the residents of Berkeley passed the Neighborhood Preservation Ordinance which severely restricted multi-unit housing in certain parts of Berkeley.

Year Built	Units in Building				
	1	2-4	5-19	20+	Other
2000 or later	261	96	120	1305	9
Built 1980 to 1999	903	391	671	824	45
Built 1960 to 1979	4369	1292	2382	2114	124
Built 1940 to 1959	4369	2448	2095	1182	45
Built 1939 or earlier	14107	4926	2158	1364	28
Total	24,009	9,153	7,426	6,789	251

Source: U.S. Census, ACS 2008-2012 5 Year Estimate, Table B25127

Until 1984, Martin Luther King Jr Way was known as Grove Street. For decades, Grove Street created a wall of segregation down the center of Berkeley. Asian-Americans and African-Americans could not live east of Grove Street due to race-restrictive covenants that barred them from purchasing or leasing property. While race-restrictive covenants no longer prohibit individuals from purchasing or leasing homes, most cities still retain the vestiges of exclusionary zoning practices.

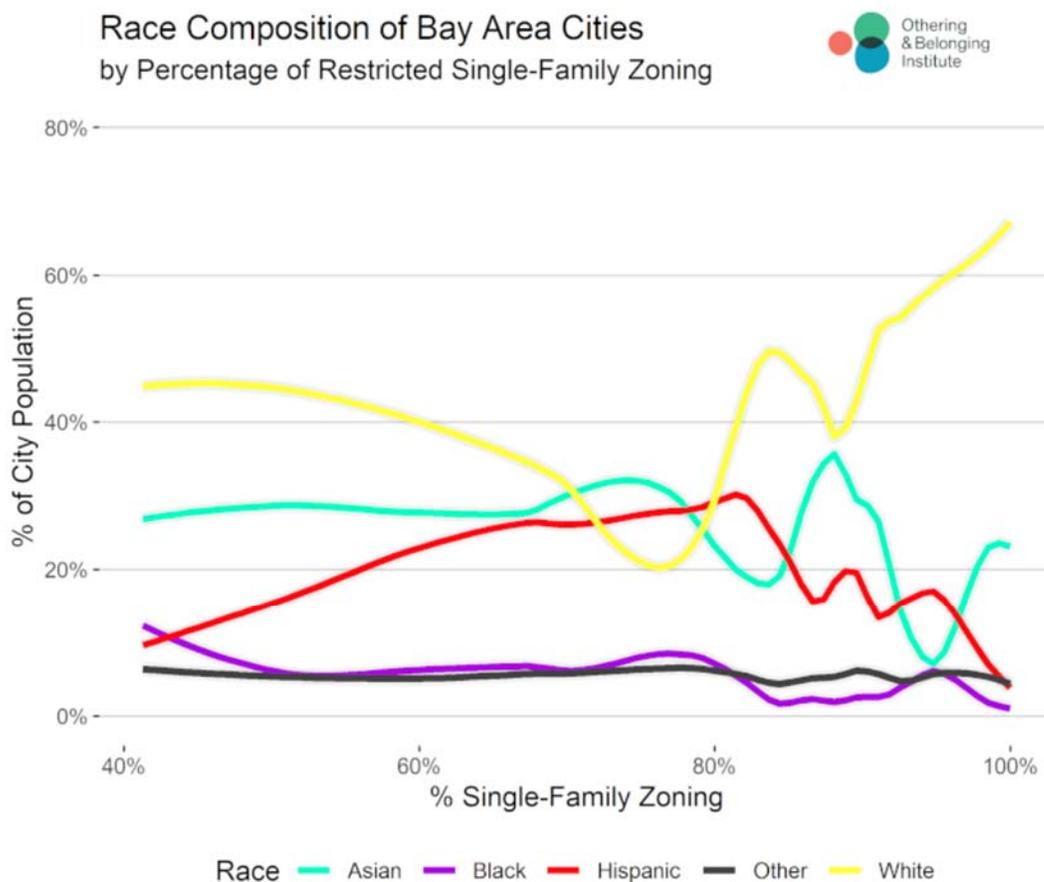
The UC Othring and Belonging Institute recently released a series of studies on racial segregation and zoning practices which revealed that 83% of residential land in the Bay Area is zoned for single family homes. The purpose of these studies was to,

Raise public awareness about the degree of segregation that persists in the Bay Area and the harmful effects that result from it. Despite the enduring significance of race and salience of racial inequality in the Bay Area, too often racial residential segregation itself is not a part of the discussion for remedying persistent racial disparities. In a period in which systemic and structural racism is a widespread societal concern, there is insufficient attention to the centrality of racial residential segregation to the production of racial inequality.³⁹

The authors found that the ramifications of restrictive zoning practices leads to a greater percentage of white residents, as recounted in KQED's "The Racist History of Single

³⁹ Menendian, S., Gambhir, S. and Gailles, A. (2020) *Racial Segregation in the San Francisco Bay Area, Part 5*. UC Othring and Belonging Institute. <https://belonging.berkeley.edu/racial-segregation-san-francisco-bay-area-part-5>

Family Zoning.”⁴⁰ By banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses, in low-density, “desirable” places in Berkeley, the current zoning map dictates that predominantly wealthier families will be able to live or rent in certain parts of Berkeley, mainly in North and East Berkeley. In a recent Turner Center analysis of land use politics, housing costs and segregation, researchers found that rents tend to be higher in jurisdictions with stringent lot size requirements compared to jurisdictions that are more lenient. Rothwell further found that “the share of land zoned for single-family detached use predicts higher housing home values and larger homes.”⁴¹ Today, with the median home sale price at \$1.4 million⁴² and the typical White family having eight times the wealth of the typical Black family, this de-facto form of segregation is even more pronounced.⁴³



⁴⁰ Baldassari, E. and Solomon, M. (2020). *The Racist History of Single Family Zoning*. KQED. <https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

⁴¹ Rothwell, Jonathan. “Land Use Politics, Housing Costs, and Segregation in California Cities.” *Turner Center for Housing Innovation*, September, 2019. <http://californialanduse.org/download/Land%20Use%20Politics%20Rothwell.pdf>

⁴² Berkeley, CA Real Estate Market. (2021). *Realtor*. https://www.realtor.com/realestateandhomes-search/Berkeley_CA/overview

⁴³ *Survey of Consumer Finances* (2020). Federal Reserve. <https://www.federalreserve.gov/econres/scfindex.htm>

Furthermore, the intensity of land use coupled with opposition to development predicts a lower share of Black, Hispanic, and blue collar workers living in the area.⁴⁴ Communities with more restrictive land uses like single family zoning create cities with whiter residents. As Jessica Trounstone, political scientist and author of *Segregation by Design and Political Monopolies* states, “It is this maintenance of homogeneity that generates segregation across city lines.” In other research, Trounstone found that more restrictive land use policies predict communities that are whiter, on average, than their surrounding metropolitan areas, even controlling for their demographic makeup years earlier.⁴⁵

According to the data mapped by UC Berkeley’s Urban Displacement Project, most of the low-income tracts in Berkeley are at-risk or have ongoing displacement and gentrification. Higher-income tracts in Berkeley are classified as ‘at-risk of exclusion’, currently feature ‘ongoing exclusion’, or are at stages of ‘advanced exclusion’. Degrees of exclusion are measured by a combination of data: the loss of low-income households over time, presence of high income households, being considered in a ‘hot housing market,’ and migration patterns. The Urban Displacement Project’s findings indicate that exclusion is more prevalent than gentrification in the Bay Area.⁴⁶ While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

University of California-Berkeley Professor Karen Chapple, anti-displacement expert and director of the Urban Displacement Project, stated that “the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC), and 75% of today’s exclusionary areas in the East Bay... Thus, this historic legacy, compounded by Berkeley’s early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today.” Not surprisingly, Chapple has indicated that zoning reform “has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today.”⁴⁷

⁴⁴ Rothwell, J. (2019, September). *Land Use Politics, Housing Costs, and Segregation in California Cities*. Turner Center for Housing Innovation.

<http://californialanduse.org/download/Land%20Use%20Politics%20Rothwell.pdf>

⁴⁵ Trounstone, J. (2020, February). *The Geography of Inequality: How Land Use Regulation Produces Segregation* Cambridge University Press. <https://www.cambridge.org/core/journals/american-political-science-review/article/geography-of-inequality-how-land-use-regulation-produces-segregation/BAB4ABDF014670550615CE670FF66016>

⁴⁶ Zuk, M., & Chapple, K. (2015). *Mapping Displacement, Gentrification, and Exclusion in the San Francisco Bay Area*. Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>

⁴⁷ Chapple, K. (2019, February 25). Letter to Berkeley City Council in support of zoning reform. Berkeleyside. <https://www.berkeleyside.com/wp-content/uploads/2019/02/Letter-on-Council-Item-22-Chapple-2.25.19.pdf>

Historic Redlining

Redlining was a practice whereby certain neighborhoods or areas were designated as being high-risk for investment. These high-risk designations were literally marked on maps using red coloring or lines, hence “redlining.” The designations were typically applied to areas with large non-white and/or economically disadvantaged populations, and resulted in people who lived in or wanted to move to these areas being denied loans, or only being provided loans on much worse terms than their counterparts who could access non-redlined areas, due to their ethnicity or higher economic status.

Because redlining practices were contemporaneous with segregationist race-restricted deeds that largely locked communities of color out of non-redlined neighborhoods, most non-white households were effectively forced to live in areas where buying and/or improving residential property was extremely difficult. Consequently, low-income and non-white families were often locked out of homeownership, and all the opportunities for stability and wealth-building that entails. Therefore, redlining tended to reinforce the economic stagnation of the areas to which it was applied, further depressing property values and leading to disinvestment. Although redlining is no longer formally practiced in the fashion it was historically, its effects continued to be felt in wealth disparities, educational opportunity gaps, and other impacts.

One way in which the practice of redlining continues to be felt is through the continuation of exclusionary zoning. By ensuring that only those wealthy enough to afford a single family home with a relatively large plot of land could live in certain areas, exclusionary zoning worked hand in hand with redlining to keep low-income families out of desirable neighborhoods with good schools and better economic opportunity. Cities, including Berkeley, adopted zoning that effectively prohibited multi-family homes in the same areas that relied on race restrictive deeds to keep out non-whites, meaning that other areas, including redlined areas, were more likely to continue allowing multi-family buildings. Economists Enrico Moretti and Chiang Tai Hsieh have estimated that strict zoning laws and other restrictive land use policies have inflated housing prices so much it lowered aggregate growth by 50% from 1964-2009.⁴⁸

Ironically, because these patterns of zoning have persisted, many areas that were historically redlined are now appealing areas for new housing development precisely because they have continued to allow multi-family homes. Any area which sees its potential housing capacity increase will become more appealing for new housing development. When these changes are made in historically redlined areas where lower-

⁴⁸ “Housing Constraints and Spatial Misallocation” Hsieh, Chang-Tai and Enrico Moretti, *National Bureau of Economic Research*, https://www.nber.org/system/files/working_papers/w21154/w21154.pdf

income and minority households tend to be more concentrated, it is especially important to ensure those policies do not result in displacement or the loss of rent-controlled or naturally affordable housing units. Nevertheless, the City of Portland, which is undergoing similar zoning reform, has predicted that there will be a 21-28% reduction of indirect displacement for low-income renters.⁴⁹

Current Discourse on Exclusionary Zoning Regulations

In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. The final legislation passed by Council was an agreement to **study** how the City of Berkeley can incorporate varying building types throughout Berkeley and address exclusionary practices. While the entire City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council additionally supported Senate Bill 902, which streamlines rezoning for missing middle housing in transit-oriented or jobs-rich areas.⁵⁰

Exclusionary zoning laws also became a prevalent national topic during the 2020 Presidential campaign under the guise of “protect[ing] America’s suburbs.”⁵¹ Celebrity Apprentice host and former President Donald Trump and his Housing and Urban Development Secretary Ben Carson expressed a concern that removing exclusionary zoning laws would prevent single family home ownership and “destroy suburbs” despite the fact that these reforms don’t bar single family home construction but allow the creation of duplexes, triplexes, and other multi-unit properties. Furthermore, exclusionary zoning practices were amplified with the termination of the 2015 Obama-era Fair Housing rule which outlawed discrimination in housing. In doing so, Trump stated that Democrats wanted to “eliminate single-family zoning, bringing who knows into your suburbs, so your communities will be unsafe and your housing values will go down.”⁵² On the other hand, Democratic Presidential candidates embraced zoning reform, most notably Elizabeth Warren and Cory Booker. President Biden has also

⁴⁹City of Portland Bureau of Planning and Sustainability. (2019, February). *Residential Infill Project Displacement Risk and Mitigation* https://www.portland.gov/sites/default/files/2019-12/vol_3_appendix_b_displacement_risk_and_mitigation.pdf

⁵⁰Wiener, S. and Atkins, T. (2020) *Senate Bill 902*. California Legislative Information. https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB902

⁵¹ Trump, D.J. and Carson, B. (2020) *We’ll Protect America’s Suburbs*. Wall Street Journal. <https://www.wsj.com/articles/well-protect-americas-suburbs-11597608133>

⁵² Kurtzleben, D. (2020, July 21). *Seeking Suburban Votes, Trump to Repeal Rule Combating Racial Bias in Housing*. National Public Radio <https://www.npr.org/2020/07/21/893471887/seeking-suburban-votes-trump-targets-rule-to-combat-racial-bias-in-housing>

indicated that he plans to invest \$300 million in local housing policy grants to give communities the planning support they need to eliminate exclusionary zoning.⁵³

Finally, on February 23, 2021, Berkeley City Council unanimously voted to undo the legacy of exclusionary zoning and permit multi-family housing throughout residential neighborhoods in Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The authors considered passing a budget referral to fund another study for missing middle housing. However, given the new Regional Housing Needs Allocations, the pending Housing Element update in 2022, and the scarcity of housing for individuals and families throughout the Bay Area, we felt the need to act immediately and not wait to study this issue.

FINANCIAL IMPLICATIONS

Costs for consultants to provide additional analysis can range from \$25,000-\$100,000. However, staff should also consider augmenting existing work on the Housing Element update and density standards study to align with the objectives of this legislation.

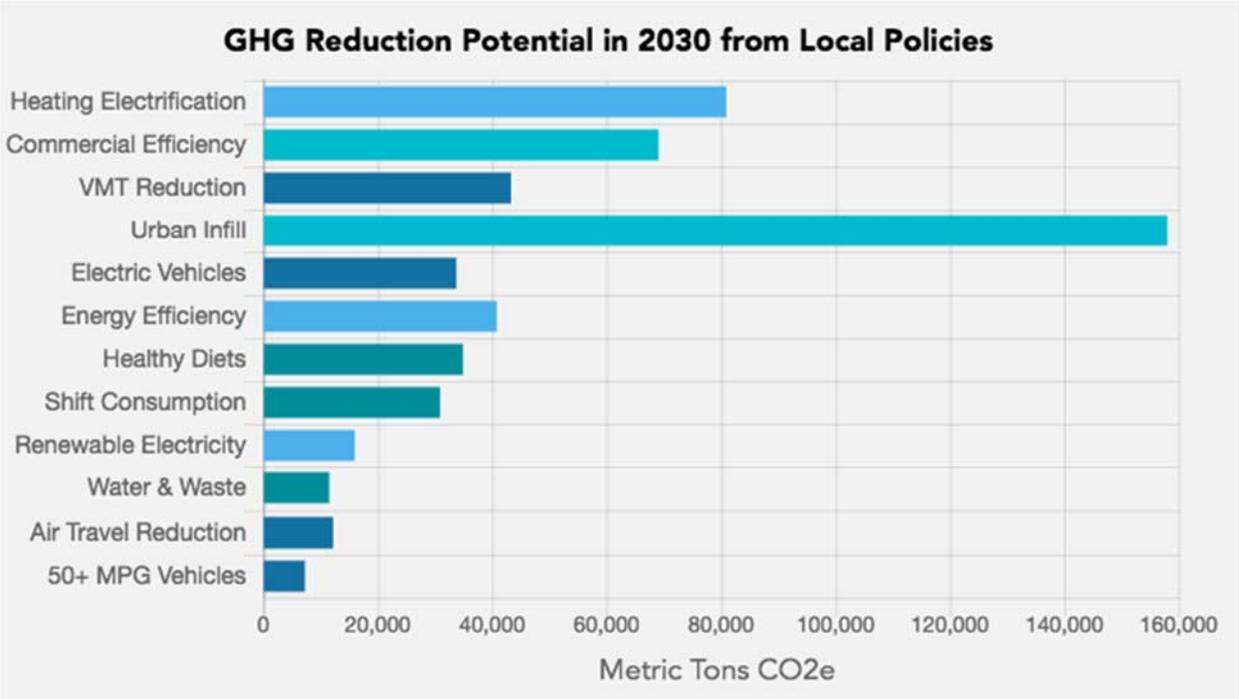
ENVIRONMENTAL SUSTAINABILITY

In 2006, Berkeley voters adopted ballot Measure G for a call to action on climate change. In 2009, the Berkeley Climate Action Plan was written through a community-wide process and adopted by Council. Berkeley reiterated concern by declaring a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. In 2018, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”⁵⁴ The most impactful local policy to potentially reduce greenhouse gas consumption by 2030 is urban infill. In short, Berkeley can meaningfully address climate change if we allow the production of more homes near job centers and transit.⁵⁵

⁵³ “The Biden Plan for Investing in Our Communities Through Housing.” (2020) <https://joebiden.com/housing/>

⁵⁴ Jones, C.M., Wheeler, S.M, and Kammen, D. (2018) *Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities*. Urban Planning (ISSN: 2183–7635). Volume 3, Issue 2. <https://rael.berkeley.edu/wp-content/uploads/2018/04/Jones-Wheeler-Kammen-700-California-Cities-Carbon-Footprint-2018.pdf>

⁵⁵ Wiener, S. and Kammen, D. (2019, March 25). *Why Housing Policy Is Climate Policy*. New York Times. <https://www.nytimes.com/2019/03/25/opinion/california-home-prices-climate.html>



CONTACT PERSON(S):

Lori Droste, 510-981-7180

CONTACT PERSON(S):

Lori Droste, 510-981-7180

ATTACHMENTS:

1. **Resolution Passed by Berkeley City Council on February 23, 2021
(Attachment 1)**
2. **Dan Parolek's Berkeleyside Op-Ed on Missing Middle Design**
3. **Professor Karen Chapple from the Urban Displacement Project Letter to
Council on February 23, 2021**

Attachment 1:

RESOLUTION NO. XX

DECLARING THE INTENT OF THE CITY COUNCIL TO ALLOW MULTI-FAMILY HOUSING IN RESIDENTIAL NEIGHBORHOODS THROUGHOUT BERKELEY

WHEREAS the City of Berkeley was the first city in the country to implement single-family zoning in 1916; and

WHEREAS the City of Berkeley's current zoning is still greatly influenced by maps developed by the federal government's Home Owners Loan Corporation which sought to maintain racial segregation through discriminatory lending practices; and

WHEREAS downzoning initiated by the Neighborhood Preservation Ordinance in 1973, restricted the creation of multifamily units in some residential zones; and

WHEREAS escalating income and wealth inequality, the prohibition of apartments and multi-family homes in the City of Berkeley coincide with the most unaffordable neighborhoods and the origins of the City's affordability crisis starting in the late 1970s after the passage of Proposition 13; and

WHEREAS there is deeply racist history to zoning practices all over the country, particularly as a proxy for overt racial restrictions, and inequities still exist today as a result of redlining; and

WHEREAS exclusionary zoning has created de facto rather than de jure racial and economic segregation, which creates strong adverse effects in life outcomes for residents; and

WHEREAS California ranks 49th out of 50th in the nation for housing units per capita; and

WHEREAS California home prices and rents are among the highest in the United States; and

WHEREAS both market rate housing and subsidized housing, in addition to strong tenant protections and demolition controls, reduce displacement pressures; and

WHEREAS zoning reform, when coupled with other policies, does not ban single family homes but allows for a greater mix of home types and income levels in more Berkeley neighborhoods; and

WHEREAS, reforms to Berkeley's residential zoning must ensure that units subject to rent control are not lost due to demolition, that demolition is generally disfavored for environmental

and contextual reasons, and that historically designated properties are protected in accordance with federal, state and local standards; and

WHEREAS, public safety, in particular in the face of earthquakes, fires, and sea level rise, many of which are exacerbated by climate change, is of critical importance; and

WHEREAS zoning reform can reduce real housing cost-burdens for low- and middle-income households; and

WHEREAS the League of California Cities called for cities to allow up to fourplexes in single family zones in their *Blueprint for More Housing 2020*;

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley registers its intent to allow for more multifamily housing throughout Berkeley; and

BE IT FURTHER RESOLVED that City Council will pursue zoning reform that takes into account the public safety in all parts of Berkeley,

BE IT FURTHER RESOLVED that in neighborhood interiors that already contain a mix of housing types from single family homes to apartments, allow new housing within that existing range; and

BE IT FURTHER RESOLVED that the elimination of exclusionary zoning by 2022 in order to meet state-mandated Regional Housing Needs Allocations requirements must coincide with strong anti-displacement, anti-speculation, and tenant protections; and

BE IT FURTHER RESOLVED that the City of Berkeley encourage inclusion of homes in all neighborhoods of Berkeley that can accommodate families in new and rehabilitated multifamily housing developments; and

BE IT FURTHER RESOLVED that the City of Berkeley will no longer ban multi-family housing, and by extension, affordable housing in certain parts of Berkeley.

BE IT FURTHER RESOLVED, that as part of zoning reform, the Council and Planning Commission should consider methods such as division, contextual addition, and adaptive reuse over demolition, ensure that new development resulting from such changes does not demolish any rent-controlled or below market-rate housing, and explore incentives for projects to contribute to the need for affordable housing; and

BE IT FURTHER AND FINALLY RESOLVED, the City Council is fully committed to carrying out a robust community process, including residents of affected neighborhoods, in the development of zoning changes, as has been done in other cities that have initiated zoning reform.

Attachment 2:

Berkeleyside

Opinion: We can design our way out of Berkeley's housing crisis with 'missing middle' buildings

A Berkeley architect argues that Berkeley should build more small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments.

By Daniel Parolek

Dec. 19, 2017

Berkeley's housing problems have gone national recently, as The New York Times' Conor Dougherty highlighted in a thought-provoking article, "The Great American Single-Family Home Problem." Dougherty examines the conflicting interests and regulations that threatened to halt the development of one lot on Haskell Street, and shows how those conflicting forces are contributing to the affordable housing crisis we are seeing in our state – and across the country.

As an architect and urban designer based in Berkeley for the past 20 years, I agree that California municipalities have an urgent need to deliver more housing. That said, just delivering more housing is not enough. We need to think about how this housing reinforces a high quality built environment and how to provide a range of housing for all segments of the market, including moderate and low-income households. More small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments, or what I call "Missing Middle Housing," should be a key focus of that housing.

Unfortunately, the design proposed for the Haskell Street site in Berkeley does not deliver on reinforcing a high quality built environment or affordability and, as the NYT article makes clear, does not deliver on any level of affordability. There are better design solutions that deliver a more compatible form, that have more and a broader range of housing units, and that can be more effective at building local support for this and similar infill projects.

For example, the 50' x 150' lot at 310 Haskell Street is big enough to accommodate a traditional fourplex, with two units down and two units above in a building that is the scale of a house (see image attached from our Missing Middle research). The units

would typically be between 750-900 square feet each. An important characteristic of this housing type is that they do not go deeper onto the lot than a traditional house, thus eliminating the concern about privacy and shading and providing high-quality outdoor living spaces. These fourplex housing types exist all over Berkeley and are often successfully integrated onto blocks with single-family homes.

So how do we get there? Berkeley and most cities across the country need to sharpen their pencils on their outdated zoning codes, first to remove barriers for better solutions and secondly, to create a set of regulations that ensure that inappropriate design solutions like the one proposed for Haskell Street or even worse are not allowed on these sites. Lower densities do not equal better design solutions and higher densities do not need to mean larger or more buildings. This is a delicate balance that few zoning codes achieve and few code writers fully understand.

We also need to change the way we communicate about housing needs in our communities. If we are using George Lakoff's rules for effective communication we would never go into a housing conversation with a community and use terms like "increasing density, adding multi-family, or upzoning a neighborhood." I can think of few neighborhoods that would feel good about saying yes to any of those options if they were framed in that way, but which can mostly get on board with thinking about aging within a neighborhood, or ensuring their kids or grandkids can afford to move back to the city they grew up in. Beginning this conversation by simply showing photographic and/or local existing documented examples of good Missing Middle housing types often disarms this conversation and leads to more fruitful results.

Berkeley's challenges related to housing are not going to go away anytime soon. We need to thoughtfully remove barriers to enable a broad range of solutions like the fourplex that have been a core part of choices provided in our communities already and learn how to effectively build consensus and support for good design solutions such as Missing Middle housing types.

Daniel Parolek is an architect and urban designer who co-authored the book "Form-Based Codes," coined the term Missing Middle Housing (www.missingmiddlehousing.com) and speaks and consults nationally on these topics.

Attachment 3:

College of
Design Environmental
CITY AND REGIONAL PLANNING
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228 Wurster Hall #1850
Berkeley, California 94720-1850
phone 510.642.3256
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February 23, 2021

Honorable Mayor and City Council members:

I am writing to convey my strong support for the Resolution to End Exclusionary Zoning in Berkeley by Councilmembers Droste, Taplin, Bartlett, and Robinson, Item #29 on your 2/23/21 Council agenda.

At present, there is no viable path to broad housing affordability in Berkeley. Our many policies and programs provide only a tiny fraction of the funding needed for subsidized housing production, much-needed Costa-Hawkins reform remains out of political reach, and every day we lose more “naturally-occurring” affordable housing. Only our most affluent residents get to see their children and grandchildren live in Berkeley. Single-family zoning, with its origins in systemic racism, threatens to lock us out of our own community.

In the first half of the 20th century, Berkeley’s small builders built thousands of charming duplexes, triplexes, fourplexes, and even eightplexes throughout its neighborhoods. These are now illegal in many areas. If an earthquake flattened one of these buildings, it would be easiest just to build a McMansion in its place – and in fact, this is already occurring, including in West and South Berkeley. Yet these “missing middle” building types currently house a disproportionate share of Berkeley’s low- and moderate-income households.¹

Making “missing middle” housing legal again will not fully solve Berkeley’s affordability crisis. But studies from Portland and Toronto suggest that opening up single-family zoning can result in more affordable housing – without displacement -- if cities design their regulations proactively.² Notably, the most effective way to achieve affordability is to facilitate the conversion of existing single-family housing into multiple smaller units (rather than spurring costly new construction). Cities can affect affordability by offering flexibility in requirements such as lot coverage, setbacks, and parking while also limiting unit size. To support mom-and-pop property owners, cities can also reduce impact fees, provide financial support such as loan guarantees for senior homeowners, and offer technical

¹ Droste, Taplin, Bartlett, and Robinson, *Resolution to End Exclusionary Zoning in Berkeley* (2/23/21).

² City of Portland Bureau of Planning and Sustainability, *Residential Infill Project Displacement Risk and Mitigation* (2019, February), accessed at https://www.portland.gov/sites/default/files/2019-12/vol_3_appendix_b_displacement_risk_and_mitigation.pdf; Elgin et al., *Missing Middle Housing: Development Costs and Affordability*, Report for the Urban Land Institute Curtner Urban Leaders Program (2020, September), accessed at https://ulidigitalmarketing.blob.core.windows.net/ulidcnc/sites/14/2020/09/2020-09-16_ULI-Financial-Team-Report.pdf

assistance.³ To prevent displacement, cities need proactive strategies for vulnerable renters and homeowners including education and financial assistance (fortunately, Vice Mayor Droste and Mayor Arreguín are already working on such strong anti-displacement and tenant protection measures).⁴ To achieve scale in these programs, as well as to reach more low-income homeowners, cities need to implement broadly; in the case of Berkeley, this means expanding eligibility in both exclusionary and formerly redlined neighborhoods.

However, adding affordability requirements, such as mandating affordability for one unit out of four, is not wise – yet. We have learned from the last decade of reforms to accessory dwelling unit (ADU) legislation that it takes time to get it right. With just a couple hundred ADUs now completed in Berkeley, the original goal of thousands of new ADUs seems like a distant dream. Just as was the case with ADUs a decade ago, there is no missing middle industry ready in the wings to start construction. It will take many years to build expertise, get the zoning right, and inspire homeowners to act. Adding affordability requirements creates issues of financial feasibility and regulatory burden that threaten to limit uptake. A more supportive approach, as we build familiarity with the missing middle concept and the capacity of locals to implement it, would be to carefully monitor the rent levels in units created in duplexes, triplexes, and fourplexes, intervening to preserve affordability as needed later, after the concept matures.

I urge you to vote yes on Item 29 to end exclusionary zoning in Berkeley. Please do not hesitate to call on me if any research on zoning impacts or alternatives is needed.

Sincerely,



Karen Chapple
Professor, City and Regional Planning
Carmel P. Friesen Chair in Urban Studies
Faculty Director, The Urban Displacement Project

³ One interesting avenue to explore would be offering the PACE (property-assessed clean energy) financing model to homeowners seeking to build additional, energy-efficient units.

⁴ Fortunately, SB 330 bans the demolition of affordable and rent-controlled units without replacement and offers tenants first right of return.

LINKS

Minneapolis Plan:

https://minneapolis2040.com/media/1428/pdf_minneapolis2040_with_appendices.pdf

Seattle Plan:

<http://www.seattle.gov/Documents/Departments/SeattlePlanningCommission/SPCNeighborhoodsForAllFINAL121318digital.pdf>

Sacramento's Plan:

https://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4822&meta_id=612624

<https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

<https://www.vox.com/22252625/america-racist-housing-rules-how-to-fix>

<https://www.berkeleyside.com/2021/02/17/berkeley-may-get-rid-of-single-family-zoning-as-a-way-to-correct-the-arc-of-its-ugly-housing-history>

<https://www.berkeleyside.com/2019/03/12/berkeley-zoning-has-served-for-many-decades-to-separate-the-poor-from-the-rich-and-whites-from-people-of-color>